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## THE EAST FLORIDA REVOLUTION OF 1812-1814

Along the northern and eastern frontiers of Spanish North America, during the first quarter of the nineteenth century, occurred a series of revolutionary outbreaks which have been conventionally classed with the expansionist movement of the people of the United States in the same period. While it cannot be denied that expansionist sentiment in the United States played an important part in these episodes, it is perhaps too often forgotten that such occurrences were incidents in the Spanish-American wars of independence. The East Florida Revolution of 1812-1814 well illustrates the play of forces and the conditions making for the disintegration of the northern provinces of the Spanish empire—the half-reluctant and generally veiled sanction by the United States government of movements which would expand its boundaries; the restless activities of land- and glory-seeking American frontiersmen; and the decline of Spanish colonial administration along the borders of New Spain.

The East Florida affair must, however, be regarded as merely an incident in the frontier revolts of the period. It was, as will be shown, an outgrowth of the West Florida Revolution of 1810-1811; it was contemporaneous with the Gutiérrez-Magee expedition into Texas in 1812-1813; and it was to be followed in rapid succession by many other enterprises of a like nature, most of them inspired, planned, and equipped in the United States, such as the Mexican revolt led by Mina in 1816-1817, the McGregor-Aury episode at Amelia Island in 1817-

1818 (most notable in this respect, because it led directly to the final occupation of Florida by United States forces), and the Fredonian Republic and James Long at Nacogdoches in Texas in 1819-1827. It was the seizure of the easternmost extremity of the northern Spanish-American frontier. A discussion of it, therefore, must take into account, on the one hand, the Spanish-American Revolution, and on the other, the expansive tendency of the people of the United States.

For a number of reasons the actions of George Mathews and John H. McIntosh in the years 1811-1813 deserve more detailed notice in American history. First, their accomplishments reflect the general weakness and decline of Spanish frontier defense, due to revolutionary movements in Europe, Mexico, and northern South America. Second, the East Florida Revolution incidentally established a precedent for the events which later led to the final acquisition of all of Florida. Third, it reflects small credit on either the political morality or experience of President James Madison, and, in a lesser degree, on his secretaries of state, Robert Smith and James Monroe. Fourth, it was one of the very few instances when a filibustering effort was launched, even indirectly, by the federal government. Finally, it shows the frontiersman's contempt for the niceties of international convention, and his readiness to twist political symbols to his own advantage.

The East Florida Revolution of 1812-1814 centered in the northeast corner of the old Spanish province of East Florida, by which was meant the peninsula proper and a strip of gulf coast extending westward to the Appalachicola River. The revolution, or such part of it as can strictly be called a Floridian product, affected only a narrow strip of settled territory along the east coast of Florida, about sixty miles long by perhaps fifteen or twenty in width, most of it enclosed in a long peninsula between the St. Johns River and the sea; and the portion to the north of that peninsula, low and swampy, and cut by the estuaries of the St. Johns, Nassau, and St. Marys

rivers into many small islands; but none the less a region of considerable fertility and very desirable, especially that portion northward from St. Augustine, the only town of any importance in the region, to the point where the St. Johns bends eastward toward the sea at the site of the present city of Jacksonville.

East Florida, at the period under discussion, had a heterogeneous population. Aside from the numerous English-speaking settlers, mostly from the United States and estimated at two-thirds of the total population in 1817,<sup>1</sup> there was a mixed collection of Spaniards, Frenchmen, Germans, half-breeds, Indians, and fugitive slaves. Most of the inhabitants seem to have been fairly content under the mild Spanish rule, and to have been peacefully engaged in agriculture or lumbering, although smuggling was becoming very profitable, due to the evasion of the embargo and non-intercourse acts of the United States. West of this narrow strip of settled country was the region occupied by the Alachua Indian tribe, who were barred from much of the coast land by the St. Johns River as a boundary of white settlement. It must be borne in mind that East Florida, so far as this discussion is concerned, consisted of little more than this narrow zone between the St. Johns and the sea and the coastwise strip north from the St. Johns to the St. Marys; for the rest of the peninsula, south from St. Augustine and west of the St. Johns, was inhabited only by white hunters and outlaws, Indians and negroes, save for a few scattered plantations along the east coast and at Tampa Bay on the west coast.<sup>2</sup>

Most accounts agree that the country was fairly prosperous under Spanish control. Especially was this true of the somewhat higher plain around St. Augustine, which is represented as being in a state of high cultivation.<sup>3</sup> Cattle-raising

<sup>1</sup> Niles' "Weekly Register", XII. 189, quoting *National Intelligencer*.

<sup>2</sup> *Ibid.*

<sup>3</sup> Testimony of George J. F. Clarke, a document in the Case of *United States v. Ferreira*, printed in *Sen. Misc. Doc.*, No. 55, 36th cong., 1st sess. (1859-1860),

was the chief pursuit along the St. Johns, and lumbering almost as important. Many negroes were employed in this part of the province, particularly in the shipping and lumbering business at Fernandina,<sup>4</sup> which was the only town of consequence north of St. Augustine.

Fernandina, a town of about six hundred inhabitants,<sup>5</sup> and the scene of the dramatic beginnings of the East Florida Revolution, stood on the outer end of a strip of dry land on the shore of Amelia Island, at the mouth of the St. Marys River and across Cumberland Sound from the State of Georgia.<sup>6</sup> It had a large commerce in proportion to its size, due to the fact that it was a center of illicit trade in cotton between the United States and Great Britain, in defiance of the embargo and non-intercourse acts, preceding the War of 1812.<sup>7</sup> It also seems to have been a center for smuggling in general, and became more so in later years, as the Spanish control grew weaker, when semi-legitimate Spanish-American privateers, many of them fitted out in United States ports, made Amelia Harbor a rendezvous.<sup>8</sup> The town had been occupied for several years as a Spanish post, but the defenses were neglected, and it was not at all formidable to any large attacking force.<sup>9</sup> This town saw the beginnings of two distinct attempts to revolutionize Spanish Florida, and it was here that the opening events took place in the Revolution of 1812.

The seizure of Amelia Island in 1812 is closely associated with two contemporary events in United States history—the West Florida Revolution of 1810 and the War of 1812. The

p. 21. Clarke had been surveyor general of East Florida under the Spanish government, and after the revolution was deputy governor of the northern division of the province. His testimony will frequently be referred to hereinafter.

<sup>4</sup> *Ibid.*

<sup>5</sup> G. R. Fairbanks, *History of Florida* (Philadelphia, 1871), p. 254.

<sup>6</sup> *Niles' Register*, XIII. 190.

<sup>7</sup> G. W. Daniels, "The Cotton Trade under the Embargo", in *American Historical Review*, XXI. 281, 285.

<sup>8</sup> E. Channing, *History of the United States* (New York, 1912), VI. 333-334.

<sup>9</sup> Testimony of G. J. F. Clarke, *op. cit.*, p. 18.

establishment of the West Florida Republic in 1810, and the difficulty of managing the unruly region, seems to have convinced Don Vicente Folch, the Spanish governor of West Florida, of the futility of further resistance to American penetration, for on December 2, 1810, even before he knew of the American occupation of Baton Rouge, he wrote to President Madison's secretary of state, Robert Smith, making a provisional offer to transfer his province to the United States, provided no Spanish aid reached him from Cuba or Mexico within a month, or that negotiations were not opened concerning the future of the district.<sup>10</sup> In this message, and in the steps by which West Florida had already been acquired, probably lies the key to much of the later conduct of the East Florida Revolution of 1812. Certainly, Governor W. C. C. Claiborne's proceedings in the occupation of West Florida,<sup>11</sup> approved as they were by Madison, cannot fail to be likened to the later procedure of General George Mathews in East Florida which, though disavowed by Madison, was undoubtedly inspired by his instructions and by Claiborne's example. No doubt Folch's communication strengthened Madison's designs upon East Florida.

However this may be, on January 3, 1811, the president gave to congress a secret message, in which he made a request for authority to take temporary possession of any part of the Floridas, according to any arrangements which might be made with the Spanish authorities, or—and this is significant—according to any arrangements in case these authorities should be deposed and Florida be in danger of seizure by any foreign power.<sup>12</sup> By "any other foreign power" was obviously

<sup>10</sup> *American State Papers, Foreign Relation*, III. 398.

<sup>11</sup> Julius W. Pratt, *Expansionists of 1812* (New York, 1925), p. 72; Isaac J. Cox, *The West Florida Controversy* (Baltimore, 1918), p. 330.

<sup>12</sup> John Bassett Moore, *International Arbitrations*, (6 v., Washington, 1898), V. 4519-4520; Pratt, *op. cit.*, pp. 73-74; *American State Papers, Foreign Relations*, III. 394.

meant England, as James Monroe later informed the French minister.<sup>13</sup>

The matter was not long debated by congress. There were presented to Madison and approved by him January 15, 1811, a resolution and an act, the tenor of which suggest the later doctrine of manifest destiny. The resolution declared that, taking into view the peculiar situation of Spain and her American provinces; and considering the influence which the destiny of the territory adjoining the southern border of the United States may have upon their security, tranquility, and commerce, . . . the United States, under the peculiar circumstances of the existing crisis, cannot, without serious inquietude, see any part of the said territory pass into the hands of any foreign power; and that a due regard to their own safety compels them to provide, under certain contingencies, for the temporary occupation of the said territory; they, at the same time, declare that the said territory shall, in their hands, remain subject to future negotiation.<sup>14</sup>

This last point is suggestive of several instances in our later foreign relations, and of Roosevelt's policy of acting first and talking afterward, but at least it helped to save the face of the administration. The act gave the president authority to take possession of all or part of the territory lying east of the river Perdido and south of the state of Georgia and the Mississippi Territory, subject to any arrangements made therefor with the "local authority" of the region, or in case of an attempt to occupy such territory by any foreign government. He was also empowered to use the army and navy of the United States for the purpose of maintaining order in the region occupied; one hundred thousand dollars was appropriated to defray the

<sup>13</sup> Henry Adams, *History of the United States, 1806-1817*, (9 v., New York, 1911), VI. 241-242, quoting *Archives des Affaires Etrangères*, MSS., Serurier to Maret, May 4, 1812; F. E. Chadwick, *Relations of the United States and Spain: Diplomacy*, (New York, 1909), pp. 115-116. For Madison's opinion of the future of Florida, see his *Writings* (Gaillard Hunt's edition, 9 v., New York, 1910), VII. 54-55, Madison to Monroe, July 29, 1803.

<sup>14</sup> *U. S. Stat. at Large*, III. 471.

expenses of the occupation; and he was authorized to establish a temporary government therein.<sup>15</sup> A subsequent act, March 3, 1811, forbade the publication of these pieces of legislation, and they were not promulgated until the sessions act of the fifteenth congress, April 20, 1818.<sup>16</sup>

As far as can be determined, Madison made this request for congressional authority in all good faith, apparently placing full confidence in Folch's offer. The president's motives are harder to penetrate. So far as East Florida was concerned, he may have intended to put a stop to the smuggling activities along the St. Marys River; and probably the whole matter, from his viewpoint, was merely one of extending the borders of the United States at a time which seemed most favorable for the purpose—that is, when Spain was facing revolts in its colonies and at home. At any rate, on January 26, 1811, the secretary of state authorized and instructed two commissioners for carrying out the act of congress. These gentlemen were Colonel John McKee, an Indian agent, and General George Mathews, a revolutionary war veteran, and ex-governor of Georgia.<sup>17</sup> Their instructions were remarkably vague and general. They were told to go to West Florida at once, and secretly. They were to negotiate with Governor Folch, and accept the country from him if he were still agreeable to its cession, and were to agree, if necessary, to restore the province to Spain later. They were authorized, if necessary, to assume the payment of Spanish debts to the people of the Floridas; to guarantee all land titles; to permit Spanish officials to retain their positions under United States rule, or

<sup>15</sup> U. S. Stat. at Large, III. 471-472.

<sup>16</sup> *Ibid.*, 472.

<sup>17</sup> Pratt, *op. cit.*, p. 75. Mathews was a native of Ireland. After fighting in the Revolution, he came to Georgia in 1785, and was next year elected governor of the state. He was again elected to this office in 1794-1795. He is described as a man of "unsurpassed bravery and indomitable energy", strong-minded but almost illiterate (A. J. Pickett, *History of Alabama*, second ed., Sheffield, Alabama, 1896, pp. 444-445). He had also, it seems, been a special agent for the secretary of war on the Florida frontier, Cox, *op. cit.*, pp. 458-459).

to advance money for their transportation out of the country; all Spanish government property was to be held sacred, as were the lives, liberties, and property of the inhabitants. In treating with the governor, they were authorized, if he insisted, to imply the possible restoration of West Florida with East Florida, though in so doing they must not definitely give up the claim of the United States to the former. If no arrangement seemed possible at all, they were to keep watch, and on the undoubted approach of a foreign power, to seize the Floridas, in which case promising as little as possible from the United States. They were to be furnished with United States troops from Georgia, subject to Mathews's orders.<sup>18</sup>

The commissioners were not long in closing their negotiations with Governor Folch. The Spaniard had made a complete about-face, his suspicions having apparently been aroused by learning of the American occupation of Baton Rouge; and he had been provided with funds by his superiors, together with orders to hold the province at all costs. Conveniently ignoring his letter to Madison, he informed the commissioners that their overtures were insults.<sup>19</sup> In April of 1811, therefore, Mathews and McKee turned their office over to Governor Claiborne, and Mathews was given power to continue his mission alone, with regard to the possible acquisition of East Florida.<sup>20</sup>

It is at this point that Mathews seems to have acquired some exalted notions of the scope of his commission. He claimed later to have been given verbal instructions of a much more explicit and ambitious nature than those written to him by Robert Smith and Monroe.<sup>21</sup> The precedent of the Baton Rouge affair may have been taken by him as justification for his conduct. The situation at St. Marys, Georgia, when he

<sup>18</sup> *American State Papers, Foreign Relations*, III. 571.

<sup>19</sup> Cox, *op. cit.*, pp. 522-528.

<sup>20</sup> *Ibid.*; Pratt, *op. cit.*, pp. 79.

<sup>21</sup> Adams, *op. cit.*, VI. 238; Pratt, *op. cit.*, p. 79, citing Mathews to Monroe, June 22, 1812, *State Department MSS., Division of Publications*.

arrived there in the spring of 1811, was such as to bear out a broad construction of his orders. He found the St. Marys River full of British vessels, from which a busy trade in British merchandise was going on in open violation of the non-importation acts. Amelia Island and the town of Fernandina were smuggling depots, in defiance of Spanish authority, which, indeed, was being used as a protection for this activity.<sup>22</sup> There was also a profitable trade in lumber, but this, at the time, was less important than smuggling, which in fact was so lucrative that many of the Spanish and American traders of St. Marys and Fernandina were unwilling to see Florida pass into the hands of the United States, because such an event would mean a serious loss to their business; and this attitude on their part seems to have handicapped Mathews.<sup>23</sup>

Mathews made no false pretenses as to his acts, in reporting his conduct to Monroe, who in April, 1811, had succeeded Robert Smith as secretary of state. In a letter to Monroe, August 3, 1811, he says:

I ascertained that the quiet possession of East Florida could not be obtained by an amicable negotiation with the powers that exist there; . . . that the inhabitants of the province are ripe for revolt. They are, however, incompetent to effect a thorough revolution without external aid. If two hundred stand of arms and fifty horsemen's swords were in their possession, I am confident they would commence the business and with a fair prospect of success. These could be put into their hands by consigning them to the commanding officer at this post [St. Marys], subject to my order. I shall use the most discreet management to prevent the United States being committed; and although I cannot vouch for the event, I think there would be but little danger.<sup>24</sup>

<sup>22</sup> Adams, VII. 238; J. B. McMaster, *History of the People of the United States*, (8 v., New York, 1895), III. 537; *Sen. Misc. Doc.*, No. 55, 36 cong., 1 sess., pp. 36-37. Statement of Judge Bronson in *United States v. Ferreira*. Bronson says that Fernandina was "a kind of neutral or free port, at which a large and lucrative trade was carried on with all nations". Also quoted in Pratt, p. 78.

<sup>23</sup> Pratt, pp. 77-78.

<sup>24</sup> Adams, VI. 239, quoting "East Florida Invasion", (*Secret Acts, Resolutions, and Instructions under which East Florida was invaded by the U. S. Troops*,

The persons to whom Mathews refers as "ripe for revolt" were probably not those who were profiting by the illicit border trade, but rather the hard-living, turbulent bordermen, and a few discontented American planters in East Florida. George J. F. Clarke, a resident of Spanish Florida, gives a quite different version from that of Mathews in his testimony in a United States supreme court case arising out of the East Florida Revolution:

The condition of the country was most prosperous. Every man was making money hand over hand as fast as he could, and in consequence of the restrictive measures of the American government, the trade of the United States with all the world, except Spain, centered in Fernandina.

In consequence of the general prosperity, the overtures of General Mathews were resisted, and the governor [*i.e.*, Mathews] became so much enraged at his want of success, that he resolved to visit Governor White [of Florida] and tempt him in St. Augustine. He prosecuted his journey as far as Atkinson's on the St. Johns, to whom he imparted his purpose; and Atkinson, who was an amiable man, dissuaded him; said he, "as sure as you open your mouth to White on the subject, you will die in chains in the Moro Castle, and all the devils in hell can't save you". General Mathews retraced his steps the next day. . . .

So far was Mathews from succeeding in alluring the inhabitants to revolt, that he had said if five thousand Floridians, or even three, would join him, he could then go on and command in his service the United States forces in the neighborhood.<sup>25</sup>

Meanwhile, the Spanish authorities were not ignorant of the danger menacing Florida. Augustus J. Foster, the recently-arrived British minister to the United States, seems to have coöperated with the Spanish ambassador, Don Luis de Onís, for on September 5, 1811, he wrote to Monroe, giving Onís's version of Mathews's activities along the border, and *Naval Forces, and Volunteers, in 1812 and 1813*. Compiled by James Cooper and Charles E. Sherman, Washington, 1860).

<sup>25</sup> *Sen. Misc. Doc.*, No. 55, 36 cong., 1 sess., 17-18, *United States v. Ferreira*. The Spanish governor referred to was Don Enrique White, governor 1795-1811.

making a formal protest on the part of Great Britain. According to Foster's version of Onís's account, Mathews was, in order to produce revolution,

using every method of seduction to his purpose, offering to each white inhabitant, who would side with him, fifty acres of land, and the guarantee of his religion and property; stipulating also that the American Government would pay the debts of the Spanish Government, whether due in pensions or otherwise, and that he would cause the officers and soldiers of the garrison to be conveyed to such places as should be indicated, provided they did not rather choose to enter into the service of the United States.<sup>26</sup>

Monroe's reply to this two months later (November 2, 1811), made no reference to Mathews's conduct, but, as if it were quite the usual means of acquiring territory, proceeded to outline the reasons of the United States for desiring Florida. He recounted the injuries of the United States at the hands of Spain, by spoliations upon commerce, by the denial of the right of deposit at New Orleans before the Louisiana Purchase, and the lack of reparations therefor. He reasserted the claim of the United States to West Florida as a part of the French cession of 1803, and calmly announced that our claims were much too great to be adequately met by the acquisition of East Florida. He held, further, that we had shown great moderation in not taking all of Florida sooner, but that in view of European designs upon the Spanish provinces, we should not delay any longer. Finally, in terms suggestive of his famous Doctrine, he warned Great Britain against encroaching upon Florida.<sup>27</sup>

<sup>26</sup> *American State Papers, Foreign Relations*, III. 543-544.

<sup>27</sup> *American State Papers, Foreign Relations*, III. 544, Monroe to Foster, November 2, 1811: "Situated as East Florida is, cut off from the other possessions of Spain, and surrounded in a great measure by the territory of the United States, and having also an important bearing on their commerce, no other Power could think of taking possession of it, with other than hostile views to them. Nor could any other Power take possession of it without endangering their prosperity and best interests".

Mathews also reported his proceedings to Madison, through his own personal friend, Senator William H. Crawford of Georgia, who may have elaborated upon them. Madison appears to have refrained from all comment upon Mathews's conduct at this stage, and his silence was probably tacit encouragement to the commissioner.<sup>28</sup>

However, this may be, preparations for the revolution went on apace, and early in the spring of 1812, Mathews was only awaiting the aid of the expected United States military and naval forces which had been promised him, to make good his pledges to the malcontents of East Florida. The American naval officer stationed at Charleston, Commodore Hugh Campbell, was ordered with nine gunboats and a supply of munitions, to the St. Marys, and a detachment of United States troops under Captain (later Lieutenant-Colonel) T. A. Smith, was stationed at the government arsenal at Point Peter, just below the town of St. Marys on the river, with orders to be prepared for action.<sup>29</sup>

Among the settlers in East Florida, Mathews had found one man of a spirit kindred to his own, whom he selected as the nominal leader of the enterprise, and who seemed qualified for the position by his experience. John H. McIntosh was, like Mathews, a revolutionary war veteran, and had held some minor offices under the Spanish government in Florida. He resided on a plantation on the St. Johns River, and along this stream he had built up a considerable lumber trade, and possessed some influence among the rivermen and frontiersmen of that region.<sup>30</sup>

<sup>28</sup> Hubert B. Fuller, *The Purchase of Florida* (Cleveland, 1906), p. 192; Adams, VI, 239.

<sup>29</sup> Pratt, pp. 80-81, citing Navy Department and War Department MSS. Campbell was ostensibly sent to the St. Marys River for the suppression of smuggling. See Fuller, *op. cit.*, p. 193.

<sup>30</sup> Fuller, *op. cit.*, pp. 38, 192; Fairbanks, *op. cit.*, p. 250; McMaster, *op. cit.*, III, 538.

By various means a collection of malcontents was made among the settlers along the St. Johns and St. Marys. Special efforts seem to have been made to interest and enlist the wealthier planters and traders of the vicinity. Mathews showed his credentials and instructions freely, it is said, and gave the impression that the United States would make good any loss or damage which his prospective revolutionists might sustain.<sup>31</sup> It was generally understood that he was acting with full discretionary powers from the United States government, and that the American naval and military forces were at his command.<sup>32</sup> Mathews secured the assistance, notably, of one Lodowick Ashley, a prosperous cattleman and lumber dealer on the St. Marys, who was, after some difficulty, persuaded to take a leading part in the enterprise;<sup>33</sup> and mention should be made of Archibald Clark, of St. Marys, who also was prominent in the organization of the revolutionary forces, and later United States customs collector of the port of St. Marys, at the time of the troubles of 1817.

On the 12th of March, 1812, all plans were complete. The revolutionists expected, with the aid of the United States gun-boats and land forces from Point Peter, to make a surprise attack on St. Augustine and have it in their possession by the 16th.<sup>34</sup> But "an unexpected circumstance" upset their calculations. Colonel Smith, the commander at Point Peter, was absent on leave, and when Mathews came to the post to ar-

<sup>31</sup> *Sen. Misc. Docs.*, No. 55, 36 cong., 1 sess., pp. 28-30, testimony of Archibald Clark. The testimony of Zephaniah Kingsley, (*ibid.*, pp. 21-25), bears out Clark's statements.

<sup>32</sup> *Ibid.*, Archibald Clark's statement. Clark (p. 29), says: "This expedition, called the Patriot war, was planned and got up by General Mathews in Georgia. It was there started and myself and others joined in it under the idea and belief that Mathews was acting for and on the behalf of the government of the United States".

<sup>33</sup> *Ibid.*

<sup>34</sup> *Sen. Misc. Docs.*, No. 55, 36 cong., 1 sess., p. 66. McIntosh wrote to López, March 15, 1812: "Had it not been for an unexpected circumstance, we could have had possession of St. Augustine and the fort [Fernandina] on tomorrow night".

range for the use of the United States troops in East Florida, he found in charge Major Jacint Laval, who proved to be not at all in sympathy with the project, and who, having no definite orders to that effect, refused to let his men assist Mathews. He became more emphatic in his refusal when he discovered that the men were not expected to go as United States soldiers, but as volunteers in the revolutionary forces:

. . . He informed us that the conduct of General Mathews had placed him in the most extraordinary and disagreeable situation; that he was compelled to become a sentinel himself in his own camp; that he [*i.e.*, Mathews] had attempted to seduce his troops to leave him, but that he might rest tranquil on this point, because his troops would not move one step without him; and, to satisfy us on this subject, he stated to us the following circumstance: that, at the commencement of General Mathew's arrangements for this revolution, he asked him for a detachment of United States troops to assist in taking St. Augustine by surprise, and that his men came to him and declared to him that they would not march unless he commanded them. And, finally, he assured us that they had used every stratagem that was possible to induce him to engage in this business with the United States troops, but that he had rejected with firmness all the offers which had been made to him. . . .<sup>35</sup>

Thus reported the commissioners whom Don Justo López, the Spanish commandant at Fernandina, later sent to Point Peter. The stubbornness of Major Laval ruined the revolutionary plan of campaign, by which St. Augustine was to have been taken first, through a surprise attack. Commodore Campbell, in command of the gunboat flotilla in the St. Marys, declined to let the gunboats assist the revolutionists, unless accompanied by the military forces.<sup>36</sup> Mathews and McIntosh,

<sup>35</sup> *Ibid.*, pp. 72-74. Report of José Hibberson and José de la Maza Arredondo, March 17, 1812. These commissioners were sent by López to determine the probable attitude of the United States troops in case of the expected attack on Fernandina by the revolutionists. Their report will be referred to again hereinafter.

<sup>36</sup> Pratt, *op. cit.*, 94. Captain Winslow Foster, one of the gunboat commanders, says that the revolutionary force, with one or two exceptions, was composed of United States citizens. *Sen. Misc. Docs.*, No. 55, 36 cong., 1 sess., p. 26.

being checked in this plan, by which United States forces were to be used, were thrown back upon their own resources, and compelled to organize the revolutionary government and gather an army with which to win East Florida by a more gradual process, pending the return of Colonel Smith.

At Ashley's home, on the St. Marys, the government of the republic of East Florida was drawn up, Mathews engineering the proceedings; and a proclamation was issued, calling upon the people to join the revolutionists, promising lands to those who would do so, and banishment and confiscation of property to those who refused.<sup>37</sup> Then, on March 14, the whole body of insurgents assembled at Rose's Bluff, on the St. Marys River, opposite the town of St. Marys in Georgia, and completed the formation and proclamation of the new government. Colonel John H. McIntosh was chosen "director", and Lodowick Ashley was made military commander.<sup>38</sup> An insurgent flag was raised on the bluff, and all was considered ready for the conquest of East Florida.<sup>39</sup> Mathews seems to have begun actual operations here, for the officials of the "republic" asked him to take charge of its territory (Rose's Bluff) in the name of the United States, which he did.<sup>40</sup> He then called upon Major Laval again to send forces to occupy the newly ceded territory, but the latter refused; and it appears to have been this refusal which provoked Mathews to attempt to enlist the United States soldiers in his enterprise in defiance of their commander.<sup>41</sup> Next day, March 15, the revolutionary army

<sup>37</sup> *Ibid.*, p. 23. (Testimony of Zephaniah Kingsley, one of the Florida planters who held somewhat aloof from the revolution).

<sup>38</sup> Fuller, p. 193.

<sup>39</sup> The insurgent flag, designed by Colonel Ralph Isaac, Mathews's aide-de-camp, consisted of a white field, with the device of a blue-clad soldier with bayonet charged, and the motto, "salus populi lex suprema". *Sen. Misc. Doc.* No. 55, 36 cong., 1 sess., pp. 18, 27. (Testimony of G. J. F. Clarke and Captain Winslow Foster).

<sup>40</sup> *Sen. Misc. Doc.*, No. 55, 36 cong., 1 sess., pp. 75-76. (Report of Philip P. Yonge and George Atkinson to Don Justo López, March 17, 1812).

<sup>41</sup> Pratt, pp. 95-96.

moved down the river two miles to Lower Bluff, only seven miles from Fernandina, and preparations were begun for the taking of Amelia Island.<sup>42</sup>

Mathews was apparently more successful with Commodore Campbell than with Major Laval. In dealing with the former, he invoked the clause of his instructions which authorized him to take possession of East Florida in case of a threatened seizure by a foreign power. There was in Amelia harbor a considerable number of British vessels, some of which were taking on lumber for the use of the British navy.<sup>43</sup> These were the occasion, probably, of his assumption. He also claimed to have positive information that two British regiments of black troops were about to be landed to take possession of the country.<sup>44</sup> Under these circumstances he considered himself justified in calling upon the naval commander for assistance. Campbell complied with Mathews's requests, though probably with some misgivings. He had, it appears, brought some supplies and munitions from Charleston for the use of the revolutionists, and deposited them at Point Peter. At Mathews's request, Campbell sent to Point Peter and secured for the revolutionists these supplies, though Laval seems to have yielded them grudgingly.<sup>45</sup>

Don Justo López, the Spanish commandant of the post at Fernandina, had a garrison of but ten men, and was naturally

<sup>42</sup> *Sen. Misc. Doc.* No. 55, 36 cong., 1 sess., p. 18. G. J. F. Clarke's testimony; Pratt, p. 96.

<sup>43</sup> *Niles' Register*, II. 251, quoting *Augusta Chronicle*; *Sen. Misc. Doc.* No. 55, 36 cong., 1 sess., p. 27 (Foster's testimony).

<sup>44</sup> *Ibid.*, pp. 73-74. (Report of Hibberson and Arredondo to López, March 17, 1812); pp. 75-76 (Report of Yonge and Atkinson to López, March 17, 1812). Mathews claimed his source of authority on this point to be a half-pay British officer residing in Georgia (Hibberson and Arredondo's Report).

<sup>45</sup> *Sen. Misc. Doc.*, No. 55, 36 cong., 1 sess., p. 26. Foster's testimony is to this effect: "The Major said, . . . that, though he had promised arms, etc. . . . he thought it a d—n rascally business, and advised witness [Foster] to tell his commander to get his neck out of the halter as soon as possible". Archibald Clark testifies (*ibid.*, p. 29), that fifty stand of arms were issued to the revolutionists at this time.

perturbed at the proceedings of the revolutionists along the St. Marys.<sup>46</sup> On March 10, he wrote to several justices at St. Marys, inquiring as to their knowledge of the authors of these preparations which seemed to threaten his post, and received in reply a disclaimer of any more than hearsay knowledge of the plans of the revolutionists.<sup>47</sup>

While he was still in a state of uncertainty, there came to him, on March 15, under a flag of truce, a letter from McIntosh, informing him of the progress made by the revolutionists in subjugating the surrounding country, and summoning him to surrender peacefully, or rather, to join with the "patriots" in their "glorious cause". McIntosh stipulated also, that Fernandina should not be subject to the restrictions on commerce imposed by the laws of the United States, and promised that if López would submit peaceably, the revolutionists would not occupy the island, but that two United States gunboats would soon arrive there, to preserve order.<sup>48</sup>

Next day, another and more explicit summons arrived from Colonel Lodowick Ashley:

Sir—The patriots of the districts situated between the rivers St. John's and St. Mary's invite you to unite with them in their patriotic undertaking, which is to place themselves under the protection of the government of the United States, which guarantees to every man his religion, his liberty, and his property, and that she will pay to every soldier and individual the amount that may be due to them by the Spanish government . . . or they summon you to surrender the town of Fernandina. . . .

<sup>46</sup> Fuller, p. 193.

<sup>47</sup> *Sen. Misc. Doc.* No. 55, 36 cong., 1 sess., pp. 65-66.

<sup>48</sup> *Ibid.*, pp. 66-67. Said McIntosh: "We are encamped, increasing like a snowball; and we have already sufficient forces to conquer all the province; we intend laying siege to Amelia island, or more properly, to invite you to unite with us in our glorious cause. The determination of the United States to take possession of our produce by conquest have caused us to agree, who have interested ourselves in the advantages which we actually enjoy, to place it under their protection; therefore we have already secured all the country between the rivers St. John's and St. Mary's. . . ."

We are informed, sir, that you have armed the negroes on the island against us; we hope that it may not be true; for if we find it to be so, you will recollect that we solemnly declare to give no quarter in the town of Fernandina. . . . The United States gun-boats will co-operate for the purpose of preventing the British vessels, etc., from acting hostilely against us.<sup>49</sup>

Ashley also made offers of terms later subscribed to, and gave López one hour in which to make his decision thereon. López expostulated against this, and sent commissioners to treat with Ashley and with Mathews.<sup>50</sup> But those sent to Ashley met with no success, and were summarily dismissed, with a message to López that the revolutionary forces would land on Amelia Island that day (March 17, 1812).

Meanwhile, López had been strengthening his defenses as much as possible, and mustering the inhabitants of Fernandina, from whom some fifty or sixty men were hastily gathered and armed. The old and half-ruined fort was built up by means of bales of cotton for ramparts, and a few small cannon were mounted.<sup>51</sup> López also, on March 16, sent a message to Commodore Campbell, whose gunboats had come down the river and were lying off Amelia Island, asking him what were his intentions with regard to the impending siege of Fernandina.<sup>52</sup> Campbell told the messengers that he had written to General Mathews, "to satisfy himself on one point", and that he could not answer them until he had heard from the general.<sup>53</sup> Next day, however, he replied, excusing his delay, and giving this naïve explanation of his future conduct:

I take the liberty of informing you that the naval forces of America, near Amelia, *do not act in the name of the United States*,

<sup>49</sup> *Ibid.*, pp. 67-68, March 16, 1812.

<sup>50</sup> *Ibid.*, pp. 68-69.

<sup>51</sup> *Ibid.*, p. 18 (George J. F. Clarke's testimony); Pratt, p. 98.

<sup>52</sup> *Sen. Misc. Doc.* No. 55, 36 cong., 1 sess., p. 70 (López to Campbell, March 17, 1812).

<sup>53</sup> *Ibid.*, p. 70 (Report of George Atkinson and G. J. F. Clarke to López, March 16, 1812).

*but do it in aiding and assisting a large portion of your inhabitants, who have thought proper to declare themselves independent, and are now in the act of supplicating you to unite with them in their cause.* You can readily, sir, form a conception of the task, which has been imposed upon me, but I hope that it will be accomplished without the effusion of human blood, while the arm of humanity and protection will be extended to the objects that deserve it.<sup>54</sup>

López had sent other messengers to Point Peter, to inquire what disposition was to be made of the United States military forces there.<sup>55</sup> From Major Laval, already testy over Mathews's conduct, he received an emphatic reply, of interesting contrast to that of Campbell:

You desire to know from me, sir, if the United States are to be considered as principals or auxiliaries? I have the greatest satisfaction in informing you that *the United States are neither principals or auxiliaries*, and that I am not authorized to make any attack upon East Florida; and I have taken the firm resolution of not marching the troops of the United States, having no instructions to that effect.<sup>56</sup>

López's commissioners to Mathews had some difficulty in finding him, for he had left Lower Bluff and was at Point Peter. And upon finding him there, they had only a quarrelsome interview with him, coming away in disappointment.<sup>57</sup>

Events moved rapidly the next day (March 17, 1812). López, doubtless encouraged by the tenor of Laval's reply, sent off another mission to Mathews, early in the morning. As the commissioners left the harbor in a small boat on their way to Low's plantation, Mathews's headquarters, they perceived the gunboats entering the harbor. Their mission to

<sup>54</sup> *Ibid.*, pp. 70-71 (Campbell to López, March 17, 1812). The italics are mine.

<sup>55</sup> *Ibid.*, pp. 71-72 (López to Laval, March 16, 1812).

<sup>56</sup> *Ibid.*, pp. 72, Laval to López, March 16, 1812. The italics are mine.

<sup>57</sup> *Ibid.*, pp. 72-74 (Report of José Hibberson and José de la Maza Arredondo).

See above, notes 35 and 44, and text referred to therein.

Mathews was as fruitless as that of the day before.<sup>58</sup> Before their return, Commodore Campbell's vessels had assumed a position before the fort of Fernandina which made the Spanish situation hopeless. Two of the gunboats remained at the mouth of the harbor, for the purpose of preventing some of the British vessels, which bore letters of marque, from interfering to assist the Spaniards<sup>59</sup> Five were drawn up before the makeshift fort, and the eighth sailed up and down the harbor.<sup>60</sup> According to one version, from this vessel signals were fired which brought up the revolutionary forces.<sup>61</sup> The gunboats anchored by the fort had springs on their cables, their guns trained on the ramparts, and men at their posts ready for action.<sup>62</sup>

Within the town there was great consternation, especially when, about ten o'clock, several large boats were seen coming down from Lower Bluff, full of revolutionists.<sup>63</sup> Some of the townsmen called out to the gunboats, which were not more than two hundred yards from the shore:<sup>64</sup>

"Keep off, or remain neutral until we decide the contest with the patriots!"<sup>65</sup>

The reply from the gunboats was:

"If you fire on them, we will fire upon you!"

The people were undecided, and appealed to Don Justo, who, after some hesitation, sent out a boat to the gunboats,

<sup>58</sup> *Ibid.*, pp. 75-76. Report of Yonge and Atkinson. See above, note 40. Their mission was to inquire by what authority Mathews was about to take possession of Amelia Island, and to find out what use was to be made of the gunboats. Mathews gave evasive answers.

<sup>59</sup> *Ibid.*, p. 27 (Testimony of Captain Winslow Foster). Foster says that the gunboat commanders (of whom he was one), had orders from Campbell to use force to aid the landing of the revolutionists, and to give aid to the wounded. He says also that the next day Campbell recalled all copies of his written orders, and that they were never seen again. See p. 26.

<sup>60</sup> *Ibid.*, p. 18 (testimony of G. J. F. Clarke).

<sup>61</sup> *Ibid.*

<sup>62</sup> *Ibid.*

<sup>63</sup> *Ibid.*, p. 18 (testimony of G. J. F. Clarke).

<sup>64</sup> *Ibid.*, p. 22 (testimony of Zephaniah Kingsley).

<sup>65</sup> *Ibid.*, p. 18 (Clarke's testimony).

bearing the Spanish flag and offering to surrender it to the United States naval officers.<sup>66</sup> But those on the gunboats refused to hold any communication with the flag bearers, and the flag was returned to the shore and hoisted again.<sup>67</sup> Meanwhile, the revolutionists had landed at Fernandina Bluff, about a mile from the town, and an hour or two afterward they marched into the streets, some two hundred and fifty strong, with McIntosh and Ashley in command. They took possession and raised the revolutionary flag, whereupon the gunboats withdrew from the vicinity of the fort and returned to Point Peter.<sup>69</sup> Most accounts agree that the presence of the gunboats was the decisive factor in the success of the revolutionists; and the Spanish witnesses confidently assert that otherwise the garrison would have resisted the revolutionists successfully,<sup>70</sup> while one of the American gunboat commanders is equally certain that had it not been for the presence of the United States vessels, the British craft in Amelia harbor would have come to the aid of the Spaniards.<sup>71</sup>

Articles of capitulation were entered into at four o'clock that day,<sup>72</sup> López signing under protest.<sup>73</sup> Of these articles the most important and significant was as follows:

That the island shall, twenty-four hours after the surrender, be ceded to the United States of America, under the express condition that the port of Fernandina shall not be subject to any of the restrictions on commerce that exist at present in the United States, but shall be open, as heretofore, to British and other vessels and produce, on paying the lawful tonnage and import duties; and, in case of actual war

<sup>66</sup> *Ibid.*

<sup>67</sup> *Ibid.*, p. 25 (Captain Foster's testimony).

<sup>68</sup> *Ibid.*, p. 18 (Clarke's testimony).

<sup>69</sup> *Ibid.*, pp. 19, 26 (Clarke's and Foster's statements).

<sup>70</sup> *Ibid.*, p. 76 (Report of Yonge and Atkinson); *Niles' Register*, II. 93. Considering the numbers of potential combatants on either side, this statement may be discounted.

<sup>71</sup> *Sen. Misc. Doc.* No. 55, 36 cong., 1 sess., p. 28 (statement of Foster).

<sup>72</sup> *Ibid.*, pp. 77-78, López to Estrada, March 20, 1812, Fairbanks, p. 254; Fuller, p. 194.

<sup>73</sup> *Sen. Misc. Doc.* No. 55, 36 cong., 1 sess., p. 19 (statement of Clarke).

between the United States and Great Britain, the port of Fernandina shall be open to British merchant vessels and produce, and considered a free port until the first of May, 1813.<sup>74</sup>

Next day Mathews arrived, and on his heels came Colonel Smith, who had returned to Point Peter and been in the former's confidence.<sup>75</sup> Mathews accepted the cession of the island from the local authorities, in the name of the United States.<sup>76</sup> A company of United States infantry, and two companies of riflemen, came next, and occupied the island.<sup>77</sup>

Thus ended the most dramatic episode of the East Florida Revolution of 1812. As an example of the methods of American filibusters, developed to a high degree, it is most interesting. All the elements of filibustering "technique", if such a term may be used, are discernible in the preparation of the revolution—the spreading of propaganda among the American- and British-born settlers in a Hispanic colony, the organization of a revolutionary government much after the manner of the Spanish-American revolutionists and with all the trappings and catchwords and exaggerated grievances, and finally the attack upon the nearest representatives of the legitimate authority, followed (in this case, immediately), by the appeal to the United States to assume jurisdiction.

The next phase of the revolution deals with the attempt of the revolutionists to take St. Augustine (a much more difficult undertaking than the seizure of Fernandina), and with the conduct of the United States troops in East Florida.

After the taking of Fernandina, Commodore Campbell seems to have had a change of heart, for although Mathews

<sup>74</sup> *Niles' Register*, II. 93; Fairbanks, pp. 254-255. Mathews gave his assent to the articles next day. This clause was evidently meant to pacify those inhabitants of Fernandina who profited by the illicit commerce.

<sup>75</sup> Pratt, p. 100. López and his men remained at Fernandina as prisoners until May, when they were sent to St. Augustine.

<sup>76</sup> *Ibid.*; McMaster, III. 539.

<sup>77</sup> *Sen. Misc. Doc.* No. 55, 36 cong., 1 sess., p. 19 (Clarke's testimony); Pratt, pp. 100-101.

still requested his services, he rendered them in a half-hearted manner, and did not appear anxious to coöperate with the military forces, which under Colonel Smith now took a more prominent part in the East Florida campaign. Campbell allowed two or three of his gunboats to protect the passage of the troops up the St. Johns, and he kept one or two hovering off the harbor of St. Augustine, but they seem to have taken little or no active part in the revolution after the fall of Fernandina.<sup>78</sup> Their chief function, indeed, was the maintenance of communication with Smith's forces.<sup>79</sup>

It was a strange conquering army that set out from Fernandina a day or two after the capitulation of the town. First marched the revolutionary forces, not more than five hundred strong, accompanied usually by Mathews.<sup>80</sup> This force reduced all opposition as they advanced:

As we marched into the province the inhabitants of the country were induced or compelled to join the patriot forces. They were given to understand that no neutrals could be left in the rear, and that if they did not join them they must leave the country.<sup>81</sup>

As they advanced the country was claimed for the revolution, and "local authorities" created. After the revolutionary army came Colonel Smith, with about one hundred United States regulars, to occupy the country as it was ceded to the United States by the Republic of East Florida:

The ceremony was this: a handsome oration was made by some patriot orator, offering the country to the United States; the patriot's flag was then taken down, and the United States colors elevated in its place, with a speech from Colonel Smith, accepting the country for the United States, and offering a pledge that he would keep and defend it.<sup>82</sup>

<sup>78</sup> *Sen. Misc. Doc.*, No. 55, 36 cong., 1 sess., p. 27 (statement of Foster); *ibid.*, p. 19 (statement of Clarke).

<sup>79</sup> *Ibid.*; Pratt, p. 105.

<sup>80</sup> *Sen. Misc. Doc.*, No. 55, 36 cong., 1 sess., p. 77 (López to Estrada, March 18, 1812); *ibid.*, p. 22 (testimony of Zephaniah Kingsley).

<sup>81</sup> *Ibid.*, p. 30 (testimony of Archibald Clark).

<sup>82</sup> *Ibid.*, p. 22 (testimony of Zephaniah Kingsley).

Thus, technically, Smith was always within the borders of the United States. His steady occupation of the country behind Mathews's acceptances of its cession, convinced the people that Mathews actually had full authority to take the province for the United States.<sup>83</sup>

On the 12th of April, Smith took possession, from the revolutionists who had preceded him, of old Fort Moosa, an abandoned outwork about two miles from St. Augustine, and within sight of the defenses of the city.<sup>84</sup> The Spanish forces were scarcely large enough to garrison the city, and made no resistance to the advance of the revolutionary army.<sup>85</sup> But the revolutionists and American forces at Fort Moosa were too near the capital for the comfort of the garrison, and Acting Governor Estrada mounted some guns upon a Spanish schooner and sent it against the fort, which stood upon the banks of a creek. As the vessel came up the creek, it was fired upon by the revolutionists; but when, in reply, a twenty-four-pound shot passed through the fort, the Americans gave up their position.<sup>86</sup> The besiegers then fell back upon several positions along the St. Johns, but one camp remained about four miles from St. Augustine.<sup>87</sup>

Meanwhile, disaster fell upon the arch-revolutionist, Mathews, at a time when his prospects seemed brightest. Various theories might be advanced to account for his treatment by Madison. It is possible that the president knew nothing of Mathews's broad construction of his orders. But the theory which seems most acceptable, and which was held by Mathews himself, is that Madison did not wish to be found sanctioning

<sup>83</sup> *Ibid.* Smith's men came up the St. John's in small boats to a point called Picolata, thence overland to the city; *ibid.*, p. 15 (testimony of John Bowden).

<sup>84</sup> Pratt, p. 103; Fairbanks, p. 255; C. M. Brevard, *History of Florida*, (2 v., Deland, Fla., 1924-1925), II. 30. After the revolutionists reached Moosa, William Craig succeeded Ashley as their commander.

<sup>85</sup> Pratt, p. 103.

<sup>86</sup> *Sen. Misc. Doc.*, No. 55, 36 cong., 1 sess., p. 24 (Kingsley's statement); Fairbanks, p. 255.

<sup>87</sup> *Sen. Misc. Doc.*, No. 55, 36 cong., 1 sess., p. 14, testimony of John Bowden.

a much more extravagant agent than John Henry,<sup>88</sup> for whose conduct he had just been criticizing Great Britain.<sup>89</sup> Or, it may be that Mathews's invasion of East Florida was merely premature. At all events, on April 4, 1812, Monroe wrote to Mathews, informing him that he had exceeded both the authority of the secret law of 1811, and his own instructions, pointing out that the occupation of East Florida had been sanctioned in one of only two contingencies: first, that the governor of the province might desire to cede it to the United States; second, that a foreign power might seem about to seize the country. The executive had never proposed to take the country forcibly from Spain, and Mathews's irregular proceedings were regrettable, though due to over-zealousness. He was ordered to give up his duties at once to the governor of Georgia.<sup>90</sup> Thus was Mathews repudiated, despite his protestations. He seems to have been very bitter about the matter, and after a conference with Senator Crawford in Georgia, started for Washington to see Madison in person. But, worn out by his activities, he fell ill while on the way, and died in Augusta, September 1, 1812.<sup>91</sup>

On April 10, 1812, Monroe wrote to David B. Mitchell, governor of Georgia, requesting him to take charge of the United States forces in East Florida. Mathews's instructions were repeated, and regret expressed for the manner in which they had been carried out. "I forbear," wrote the secretary of state, "to dwell on the details of this transaction because it is painful to recite them." Mitchell was asked to restore East Florida to its former condition, withdrawing the United States troops entirely, and he was especially to secure from the Spanish authorities an amnesty for such persons as had joined

<sup>88</sup> See Pratt, pp. 109-110.

<sup>89</sup> *Ibid.*; *Writings of James Madison*, (4 v., Philadelphia, 1865), II. 562 (Madison to Jefferson, April 24, 1812). Madison wrote: "In East Florida Mathews has been playing a strange comedy in the face of common-sense as well as of his instructions. His extravagances place us in the most distressing dilemma".

<sup>90</sup> *American State Papers, Foreign Relations*, III. 572.

<sup>91</sup> Pratt, pp. 114-115.

Mathews on the latter's promise of aid from the United States.<sup>92</sup> Later instructions, May 27, contained these significant words:

It is not expected, if you should find it proper to withdraw the troops, that you should interfere to compel the patriots to surrender the country, or any part of it, to the Spanish authorities. The United States are responsible for their own conduct only, not for that of the inhabitants of East Florida. Indeed, in consequence of the commitment of the United States to the inhabitants, you have been already instructed not to withdraw the troops, unless you find that it can be done consistently with their safety, and to report to the Government the result of your conferences with the Spanish authorities, with your opinion of their views, holding in the mean time the ground occupied.<sup>93</sup>

Therefore, Mitchell was to obtain safety for the revolutionists, to aid them as much as possible, and to withdraw the troops as slowly as might seem feasible. No better way of continuing Mathews's work could perhaps have been devised, and Mitchell seems to have made the most of his opportunities.

The Spanish attack on Fort Moosa appears to have been made while a kind of truce was in force between Smith and the defenders of St. Augustine, pending the result of negotiations between Mitchell (who was still at St. Marys), and Estrada.<sup>94</sup> Mitchell seized upon this incident as a grievance against the Spanish provincial government, and although Estrada's successor, Don Sebastián Kindelan, demonstrated that, since the United States regulars and the Floridian revolutionists occupied the same camp, it was hard to dislodge the latter without seeming to attack the former, Mitchell complained because the attack had been made *after* the United

<sup>92</sup> *American State Papers, Foreign Relations*, III. 573.

<sup>93</sup> *Ibid.*, III. 573.

<sup>94</sup> *Sen. Misc. Doc.*, No. 55, 36 cong., 1 sess., pp. 85-86 (Mitchell to Kindelan, June 16, 1812).

States had disclaimed responsibility for Mathews's invasion, and for the participation of its forces therein.<sup>95</sup>

Kindelan took office June 11, 1812, and at first carried on negotiations with Smith, but when Mitchell took charge, he broke off relations with the United States commander, and resumed scarcely more satisfactory relations with Mitchell. He threatened to resort to desperate measures unless the United States forces were withdrawn at once.<sup>96</sup> But Mitchell would not listen to threats, and countered boldly with demands for an explanation of the Fort Moosa episode.<sup>97</sup>

Kindelan's meaning with regard to "desperate measures", was soon made clear, and his subsequent actions went far toward saving East Florida for Spain. For now a third factor entered the situation. Both the revolutionists and the Spaniards had been negotiating with the Seminoles of Alachua, with the advantage on the side of Spain; and now the Spanish governor succeeded in winning over the Indians to his side. He did so just in time to save St. Augustine from a serious food scarcity due to the depredations of the insurgents in the vicinity.<sup>98</sup> On the 25th of July, all along the St. Johns, there broke out Indian warfare upon the helpless settlers, and the whole frontier was raided.<sup>99</sup> The result was even more than Kindelan had expected, for at once a majority of the revolutionary army left their camps and went home to defend their families and property.<sup>100</sup> The revolutionists, reduced to an ineffective rabble, retired, together with the United States troops, to a point on the St. Johns whence they could more

<sup>95</sup> *Ibid.*, pp. 85-88 (Mitchell-Kindelan correspondence, June 16-July 6, 1812). Bowden's testimony (*ibid.*, 15-16), bears out Kindelan's statement that the United States troops and the revolutionists occupied the same camp.

<sup>96</sup> *Ibid.*, p. 84 (Mitchell-Kindelan correspondence, Kindelan to Mitchell, June 11, 1812). He meant, of course, the Indian tribes, the last resort of the Spaniards.

<sup>97</sup> See above, notes 94 and 95.

<sup>98</sup> *Sen. Misc. Doc.*, No. 55, 36 cong., 1 sess., pp. 23-24 (Kingsley's testimony).

<sup>99</sup> *Ibid.*, p. 23.

<sup>100</sup> *Ibid.*, pp. 23-24.

easily maintain communication with Georgia, and there established what they chose to call Camp New Hope.<sup>101</sup>

From Georgia came two expeditions of militiamen, one under Colonel Newnan in the summer of 1812, and one in the spring of 1813 under Colonel Williams, for the purpose of retaliation for the Indian outbreak, which presently died down, but not before its purpose had been accomplished, for the revolutionary army and camp dwindled to the point of uselessness.<sup>102</sup>

Meanwhile, the East Florida Revolution had merged into a more important struggle, the War of 1812, and there was less concern in Washington over the situation along the St. Johns. The outbreak of war helped Mitchell to continue to keep the troops in East Florida, on his interpretation of his orders from Monroe. In congress, the matter was dismissed after a debate in the house, June 19, when a bill was passed authorizing the president not to withdraw the troops from East Florida. This was defeated in the senate, but Madison continued to hold the forces of the United States in Spanish territory, partly, perhaps, to allay Georgian fears of a British invasion from that quarter; partly to give the revolutionists all possible opportunity to recover.<sup>103</sup> Toward the end of July, 1812, Mitchell, after finding a new pretext for haggling with Kindelan, over the latter's supposedly dangerous employment of negro troops in the St. Augustine garrison,<sup>104</sup> had retired from St. Marys to deal with the war session of the Georgian legislature.<sup>105</sup> The revolutionary forces were by now negligible, though McIntosh kept up a show of government at Fernandina; and Smith, at length, was forced to rely upon the assistance of Newnan's Indian fighters to get his

<sup>101</sup> *Ibid.*; Fairbanks, p. 255.

<sup>102</sup> *Sen. Misc. Doc.*, No. 55, 39 cong., 1 sess., pp. 39-40 (Bronson's statement); Fairbanks, p. 257.

<sup>103</sup> Adams, *op. cit.*, VI. 243.

<sup>104</sup> *Sen. Misc. Doc.*, No. 55, 36 cong., 1 sess., pp. 90-91 (Mitchell to Kindelan, July 6, 1812).

<sup>105</sup> Pratt, pp. 205, 211-212.

detachment safely to the St. Johns on the retreat from St. Augustine.<sup>106</sup>

In October, 1812, Monroe, perhaps fearing that Mitchell might follow in the footsteps of Mathews, sent Major-General Thomas Pinckney to take charge of the whole border situation.<sup>107</sup> Pinckney seems to have had much better relations with Kindelan, and in March, 1813, they had reached the point of negotiating for the removal of the United States troops. In March, Don Luis de Onís, the Spanish minister at Washington, communicated to Monroe an act of amnesty for the East Florida insurgents "who had been induced to revolt by an agent of the United States, whose proceedings in that respect were unauthorized".<sup>108</sup> In accordance with this, Kindelan published a proclamation of amnesty, and both he and Pinckney began arrangements for the withdrawal of the United States forces.<sup>109</sup> On April 27, 1813, Smith's command left Camp New Hope on the St. Johns, early in the morning, setting the camp buildings afire as they left.<sup>110</sup> On May 6, 1813, Kindelan arrived at Fernandina with a force of Spanish regulars for a garrison, and the United States troops were withdrawn from East Florida for a period of four years.<sup>111</sup>

The results of the invasion had been ruinous to East Florida. All accounts agree on this point, and many of them attribute most of the damage done to the encouragement given the revolutionists by the presence of the United States regulars.<sup>112</sup> The combined force of insurgents and regulars seems to have lived on the country, and foraging parties were com-

<sup>106</sup> *Ibid.*, p. 208.

<sup>107</sup> *Ibid.*, p. 211.

<sup>108</sup> *Sen. Misc. Doc.*, No. 55, 36 cong., 1 sess., pp. 90-91 (Pinckney to Kindelan, March 26, 1813).

<sup>109</sup> *Ibid.*, p. 91 (Kindelan-Pinckney correspondence, March 31-April 26, 1813); *Niles' Register*, IV. 126, April 24, 1813.

<sup>110</sup> *Sen. Misc. Doc.*, No. 55, 36 cong., 1 sess., p. 96 (Kindelan to Pinckney, April 28, 1813).

<sup>111</sup> Pratt, p. 234.

<sup>112</sup> *Sen. Misc. Doc.*, No. 55, 36 cong., 1 sess., p. 20 (G. J. F. Clarke's testimony); *ibid.*, p. 27 (Foster's statement).

posed of both groups.<sup>113</sup> Says one of the planters of the country:

Everything was thrown into disorder, the houses all burned, the inhabitants flying or keeping up a feeble warfare against the Indians; fields were ravished; the cattle destroyed or driven away; slaves were left to the mercy of the Indians, or to their own control or discretion. All these evils arose, undoubtedly, from the presence of the United States troops, an agent, without which, there would have been no patriot insurrection, and no Indian warfare.

The country was in a very flourishing state when the revolution commenced. The lumber and cotton trade made it so. It never was so prosperous before or since. It was left by the patriots a perfect desert.<sup>114</sup>

As for the revolutionists, for nearly a year after the withdrawal of the American forces, they continued to menace the Spanish authority along the St. Marys.<sup>115</sup> In August, 1813, they seem to have defeated the loyalists in a battle on the banks of that river.<sup>116</sup> Then, and again in December, they sought to come to terms with the Spanish provincial government, but the latter refused to treat with them.<sup>117</sup> Some of them retired into the Indian territory, Alachua, and there set up a paper government called the District of Alachua, under which name they sought to play some part in the relations between the United States and Spain.<sup>118</sup> But in April, 1814, Monroe declined to have further relations with them, for, said he:

The United States being at peace with Spain, no countenance can be given by their government to the proceedings of the revolutionary party in East Florida, if it is composed of Spanish subjects—and still less can it be given them if it consists of American citizens. . . .<sup>119</sup>

<sup>113</sup> *Ibid.* (John Bowden's testimony).

<sup>114</sup> *Ibid.*, p. 24 (testimony of Zephaniah Kingsley).

<sup>115</sup> Pratt, p. 238.

<sup>116</sup> *Ibid.*, p. 240.

<sup>117</sup> *Ibid.*, pp. 241-242.

<sup>118</sup> *Ibid.*, pp. 242-245.

<sup>119</sup> *Ibid.*, p. 246 (quoting *State Department MSS., Domestic Letters*, XVI. 234).

This statement, when compared with Madison's instructions to Mathews, forms an interesting example of the tortuous foreign policy of the United States during the period.

Finally, in 1816, George J. F. Clarke, by authority of the Spanish governor, Don José Coppinger, offered to the people of East Florida a proposition to abandon the "republic", and accept Spanish rule under a system by which the territory between the St. Marys and the St. Johns was divided into three districts, with local self-government. This was accepted, and the East Florida Revolution at last came to an end.<sup>120</sup>

As an incident in the Spanish-American wars of independence, the East Florida Revolution represents a number of filibustering projects launched from the United States against the crumbling Spanish empire in the New World, of which this was only the northeasternmost attack. It is interesting to speculate, though only speculation is possible, as to what might have eventuated had not the attention of the United States been diverted by the War of 1812. Regarded in the light of an expansionist episode, the East Florida incident was abortive. But considered as merely one phase of the struggle between Anglo Americans and Spanish Americans for the bulk of the North American continent, a struggle in which each contestant was hammering out spheres of influence, and in which the United States took advantage of the Spanish American Revolution, a struggle in which there developed what might be called a technique of filibustering—the East Florida Revolution has an interest all its own.

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<sup>120</sup> Brevard, *History of Florida*, I. 31.

## THE CORREGIDOR IN SPANISH COLONIAL ADMINISTRATION<sup>1</sup>

Little or no attention has been paid to the *corregidor* in the study of Spanish colonial administration. This important official ranked with the three highest officers in America: the viceroys, the *oidores*, and the governors. In the *Recopilación de Leyes* we read:

For the better and more satisfactory government of the Western Indies, those possessions and kingdoms have been divided into large and small provinces, the larger of which include many other districts and have been placed under our royal audiencias while the smaller ones have their own governors. The others where . . . it has not been deemed necessary or convenient to establish a seat of government or to appoint a governor, have been placed under *corregidores* or *alcaldes mayores* entrusted with the government of the cities therein and their dependencies. The same has been done in the case of the principal Indian towns, which have been made the seat of government for the smaller ones.<sup>2</sup>

Furthermore, Manuel Romero de Terreros says:

In colonial days the office of corregidor of Mexico was of considerable importance, for he who held this position could consider himself the most important person in New Spain after the viceroy and the members of the audiencia.<sup>3</sup>

It is evident from these statements that the corregidor occupied an important position in the administration of the Spanish colonies. Designed primarily for the welfare of the

<sup>1</sup> The present paper was undertaken at the suggestion of Dr. J. Lloyd Mecham, of the University of Texas, to whose kind encouragement and helpful advice due acknowledgment is made.

<sup>2</sup> *Recopilacion de las Leyes de los Reynos de las Indias* (Madrid, 1756) book V, tit. I, law I.

<sup>3</sup> *Los Corregidores de México* (Madrid, 1917), p. 3.

smaller governmental units, this important official, because of the peculiar conditions that existed in America, came to be the source of serious and far-reaching abuses. The titular protector of the Indians, he soon became their greatest curse, for the defenseless natives were powerless against his insatiable greed. So grave were the consequences of his misgovernment that it was finally necessary to change the entire colonial system of administration and introduce the intendencies in order to correct the many evils caused by the corregidores.

This fact has been generally ignored, but we cannot doubt that it was one of the fundamental causes for the administrative reforms that were introduced in the last quarter of the eighteenth century, for the Marquis of Sonora clearly brings it out in his general report made to the viceroy of Mexico on December 31, 1771:

In the plan framed with the approval of the Marquis de Croix, and which your Majesty has been pleased to approve by royal order on August 10, 1769, providing for the establishment of intendencies in New Spain, I described, with all clearness and in the light of past experience, the evils caused by the corregidores and alcaldes mayores in the provinces. The number of these officials in this audiencia and that of Guadalajara is about two hundred. Reduced to the hard necessity of securing the indispensable means to maintain themselves in office, satisfy their planned desires, and accumulate some wealth before retiring, they generally do not overlook any means, however unjust or extraordinary, that may be conducive to the accomplishment of their ends. Since they cannot attain their desire without evident harm to the interests of the king and of his vassals, they are equally prejudicial to the king's treasury and to his people.<sup>4</sup>

After explaining in detail the fundamental evils arising from the abuses of the corregidores and pointing out how they can be corrected by the establishment of intendencies, he says:

<sup>4</sup> *Informe General que en virtud de Real Orden instruyó y entregó el Exmo. Sr. Marqués de Sonora, . . . al Excmo. Sr. Virrey Frey D. Antonio Bucarely y Ursua* (Mexico, 1867), pp. 17-18.

It will be more satisfactory and practicable for the chief executive of this kingdom [New Spain] to have under his immediate orders twelve *intendentes*, carefully chosen, whose character is above reproach, than to have to suffer and contend with two hundred wretches who, with their empty titles of judges, have come to constitute an independent judicial sphere, wherein, driven by their greed, they work out their own fortunes at the expense of the royal treasury and the ruin of the people.<sup>5</sup>

If this officer, heretofore practically unnoticed, was important enough to cause Charles III. to change the entire colonial system of administration, after almost two hundred and fifty years of successful operation, his office and powers deserve to be studied. Beginning in remote times as a special agent of the king in judicial matters, he came to be invested with administrative powers, until by the time of the discovery of America, he had taken his place by the side of the governors and *adelantados*.

As a judicial officer his origin may be traced back to Roman times, when he was usually known as *Praesis Provinciae*. He was then a royal officer, appointed as the personal representative of the king and invested with supreme authority over all ordinary judges in a given district. He had, at this time, no set term of office or salary, but was generally commissioned to act as a special agent of the king in a stipulated case. His commission and powers ended with the settlement of the case in hand. At that time the *alcaldes* were the regular judicial officers, holding office for a definite period of time.<sup>6</sup> The first to use the term *corrector*, from which *corregidor* is derived, was Emperor Constantine. It was not until the time of Alfonso XI., however, that the term came into general use in Spain, and the office assumed permanent characteristics, the *corrector* being then appointed to serve for a given period of time.

<sup>5</sup> *Ibid.*, p. 18.

<sup>6</sup> Castillo de Bovadilla, *Politica para corregidores, y senores de vasallos, en tiempo de paz y de guerra* (Madrid, 1775), I. book I, chap. II.

So that until this time there were no corregidores in Spain properly speaking, such as we have now. There were only alcaldes, natives of the towns and appointed by them. . . . The corregidores were then sent as commissioners in keeping with and according to the laws governing the first republics of the world under a supreme authority.<sup>7</sup>

It was not until the time of Ferdinand and Isabella that the corregidor became a political officer. Their Catholic majesties were the first to send out corregidores with powers as governors. They not only invested this judicial officer with administrative powers, but appointed him to serve for a year, thus fixing his term of office for the first time and giving it permanence. The time could be extended by reappointment for one, two, or three years at the king's pleasure. Endowed with administrative duties, the corregidor now took the place of the alcalde in the *villas* and *pueblos*, the latter having been elected locally before this time. With the changed status of the corregidor, that official replaced the local alcalde and his office became appointive and dependent upon the king. The innovation was justified legally by claiming that the principal functions of the corregidor were judicial, that the king was the highest judge in the kingdom, and that ever since the time of the Caesars, it had been the inalienable right of the supreme head of the state to appoint the highest local judges.<sup>8</sup>

The villa or pueblo retained just a vestige of its former power of election. In case of death, if the corregidor had no *teniente*, the *regimiento* or *cabildo* might elect a temporary corregidor.<sup>9</sup> The king had to be notified immediately in order that he might confirm the election by royal appointment or provide otherwise. Cities far removed from the seat of government, as were those in the Indies, were granted the same

<sup>7</sup> *Ibid.*, I. p. 17.

<sup>8</sup> *Ibid.*, book I, chap. III.

<sup>9</sup> It is interesting to note that in the *Leyes de Indias*, the terms "regimiento", "cabildo", and "ayuntamiento" are used interchangeably. The first of these is the oldest term for city council and is undoubtedly related to *regidor* (regent, or ruler), usually applied to the members of the regimiento or cabildo.

privilege of electing a temporary corregidor in case of death, even if there were a *teniente*. With the erection of viceroyalties and captaincies general, the power of appointment came to be exercised exclusively by the viceroy, the governor, or the captain general as the king's representatives. The king retained the right of appointment to the more important *corregimientos*. Those which could be appointed only by the king are enumerated in the *Leyes de Indias*. Chief among these were the corregidores for Cuzco, Caxamarca, Villa de Santiago, San Marcos, Collaguas, Villa de Ica, Arequipa, Guamanga, San Miguel Piura, and Castro Virreyna in Peru; and Ciudad de Mexico and Nuestra Señora de los Zacatecas in New Spain. All the rest could and were, as a matter of fact, appointed by the viceroys, governors, and captains general.<sup>10</sup>

In name, the office of corregidor remained primarily a judicial office, but in practice it assumed administrative and legislative powers. Judicially, the corregidor was considered a royal magistrate, who exercised "jurisdicción alta y baxa, y mero y mixto imperio". He carried the *vara de justicia* as an insignia of his high office. He was second only to the king in judicial matters within the district to which he was assigned.<sup>11</sup> Only men of high social standing, or recognized nobility and well established character, were appointed to this office at first. In theory, the fundamental prerequisites were to be *hijodalgo*, both on the mother's and father's side, and to be *cristiano viejo*.<sup>12</sup> This was strictly observed in the early days, but with the rapid growth of the dominions overseas, the vigilance was relaxed. Men of dubious character, without competent resources to keep up the dignity of the office, and utterly unscrupulous, were often appointed to the position. Such men had no other end or purpose than to enrich themselves, and since the term of office came to be fixed at five years in the majority of *corregimientos* in the new world, the corregidores

<sup>10</sup> *Recopilación de Leyes*, book V, tit. II, law I.

<sup>11</sup> Bovadilla, *Política para corregidores*, book I, chap. III.

<sup>12</sup> *Ibid.*, book I, chap. IV.

spared no means while in power to exact the last penny from the poor Indians within their jurisdiction.

In case of death or removal from office for just cause, the viceroy had the right to appoint a successor.<sup>13</sup> Those who received their appointment directly from the king in Spain were required to take an oath before the council of the Indies before embarking for America.<sup>14</sup> If the person appointed were living in America, he held office for three years, but if he were residing in Spain at the time of the appointment, his term was five years.<sup>15</sup> Though no reason is given for the longer term granted to those who had to come from Spain, it is easy to see the purpose of the provision in the law. The expenses involved in the long trip and the unavoidable difficulties attendant upon the removal of the household did not have to be undergone by those in America. The term of office did not end, however, at the expiration of the time stipulated but upon the arrival of the successor. If no one arrived to succeed him, the corregidor continued to exercise his jurisdiction. The corregimiento was compelled to recognize his authority until his successor arrived.<sup>16</sup> The teniente succeeded him in case of death and continued to exercise his power until the arrival of the new corregidor.<sup>17</sup> Should the successor arrive before the expiration of the time stipulated in the appointment of the corregidor in office, the latter was to serve out his term. The term of office of a corregidor legally ended with the presentation of the appointment by the new corregidor. Up to that time, the incumbent in office had full jurisdiction and power, and was entitled to receive the corresponding emoluments.<sup>18</sup> The viceroys and audiencias were specially charged not to remove the corregidores without just cause, nor to fill vacancies,

<sup>13</sup> *Recopilación de Leyes*, book V, tit. II, law IV.

<sup>14</sup> *Ibid.*, book V, tit. II, law VII.

<sup>15</sup> *Ibid.*, book V, tit. II, law X.

<sup>16</sup> Alonso de Villadiego Vascuña y Montoya, *Instrucción Política y Práctica judicial conforme al Estilo de los Consejos* (Madrid, 1766), p. 147.

<sup>17</sup> *Ibid.*, p. 147.

<sup>18</sup> *Ibid.*, p. 174.

but to leave those appointed by the king to serve out their term or to continue in office until new provision was made.<sup>19</sup> As the corregidor had more than one teniente at times, particularly if there were several cities within his jurisdiction, in case of death each teniente assumed full power in his own city, without being subject in any way to the teniente residing in the principal city or seat of the corregimiento. They exercised full and independent jurisdiction each within his own respective district until a new corregidor was duly appointed, who in turn could appoint new tenientes or confirm those in office.<sup>20</sup> It is of interest to note that in the towns where there was an alcalde mayor and a teniente in addition to the corregidor, in case of death of the latter, the teniente and not the alcalde mayor exercised the power and duties of the corregidor.<sup>21</sup>

The installation in office of the new corregidor was minutely provided for by the laws of the Indies and established by custom. The new appointee had to notify the incumbent in office of his appointment in writing and to tell him when he expected to arrive. He was carefully advised, however, that, in order to avoid unnecessary ceremony and pomp, he should try to arrive unexpectedly a short time before the expiration of his predecessor's term. He was warned not to exercise his jurisdiction or enter into the duties of his office until he was duly installed and given the *vara de justicia*.<sup>22</sup> As soon as the new corregidor arrived, the old one had to call on him and arrange to convene the corregimiento the next day for the formal presentation of the royal order of appointment. The corregimiento being convened, the old corregidor escorted the new one into the hall and seated him on the left, while his teniente sat on his right. The new appointee then presented his commission and any other royal provisions he had with any cédulas he might hold. These were read by the secretary,

<sup>19</sup> *Recopilación de Leyes*, book III, tit. II, law IV.

<sup>20</sup> Villadiego, *Instrucción Política*, p. 260.

<sup>21</sup> *Ibid.*, p. 260.

<sup>22</sup> *Ibid.*, p. 148.

who handed them to the outgoing corregidor. He took them and placed them over his head in token of his submission to the sovereign's will. He then kissed them and gave them to the eldest member of the corregimiento, who went through the same ceremony for the entire body. Having done this, the acting corregidor officially delivered his *vara de justicia* to his successor. The new corregidor proceeded to appoint a new teniente and an *alguacil*. The accustomed oath to uphold the law was then taken and a record of the proceedings made on the minute book of the corregimiento, and this was signed by both corregidores. The eldest member of the corregimiento then demanded bond of the new corregidor for his *residencia*, and he was allowed thirty days to give it. The session over, the new corregidor accompanied his predecessor to his home.<sup>23</sup>

As stated before, the office of corregidor was, generally speaking, judicial. He was a royal magistrate with power to act in all legal disputes, to punish all infractions of the law, and to put into execution all measures conducive to good government. He superseded all judicial officers within his jurisdiction and had power over all of them. In many respects he had the same powers as an adelantado.<sup>24</sup>

The personal virtues and characteristics necessary for the discharge of such an important office are enlarged upon in the various commentaries to the laws of the Indies. In these it is pointed out that a good corregidor must have those personal attributes which are essential to the ideal judge, such as kindness, modesty, impartiality, a high sense of honor, wisdom, prudence, and circumspection. He was warned against being talkative or fond of display or witty or revengeful. Above all things he was warned never to be unfair or improper. He should never receive or accept any gifts or favors which might be construed as bribes. A knowledge of law was advisable though not indispensable for the appointment to the office. If

<sup>23</sup> *Ibid.*, p. 148; *Recopilación de Leyes*, book V, tit. II, laws VIII and IX.

<sup>24</sup> Villadiego, *Instrucción Política*, p. 148.

a corregidor were not acquainted with law, he had to appoint a teniente who was versed in legal matters so that the latter might act as his judicial adviser.<sup>25</sup>

Certain restrictions were placed upon the corregidor to prevent him from using his office for the illegal acquisition of property. While in office he could not buy or build a house within his jurisdiction. He could not establish an estate or build a ship during his term of office.<sup>26</sup> He could not engage in trade either personally or through a third person, but he could buy the necessary things for his household. He could compel those who had grain and other foodstuffs to sell them to him at the current market prices, but he was not to be held responsible for debts contracted by members of his household, unless these were contracted at his written request. In the public announcement or *bando*, which he was supposed to make upon entering office, he had to state clearly that no credit was to be given to any of his servants or members of his household.<sup>27</sup>

The corregidor could not contract marriage with any resident within his jurisdiction while in office, without a special dispensation from the king. His male children were likewise forbidden from contracting marriage within the jurisdiction, but the daughters were not affected by this prohibition.<sup>28</sup>

The wife of the corregidor held a privileged position, for she enjoyed the same dignities and privileges as her husband. He was not responsible for debts contracted by her if he declared in his public announcement at the beginning of his term that he desired no credit to be extended to any member of his household.<sup>29</sup>

<sup>25</sup> *Ibid.*, pp. 154-155, 168.

<sup>26</sup> *Ibid.*, p. 164.

<sup>27</sup> *Ibid.*, pp. 164-165; *Recopilación de Leyes*, book V, tit. II.

<sup>28</sup> Villadiego, *Instrucción Política*, pp. 164-165; *Recopilación de Leyes*, book V, tit. II.

<sup>29</sup> *Ibid.*, p. 174.

As has already been noted, the corregidor enjoyed the right of appointing a teniente to help him in legal matters and to take his place in case of absence. This right became a duty in the case of a corregidor who was not versed in law,<sup>30</sup> but the choice was left entirely to the corregidor, except that he could not name a relative to that office, nor could he sell the office to the highest bidder. He was warned to exercise great care in the selection of his teniente; for, having selected him, he had to keep him for the entire term of office unless there was just and powerful cause for removal. The two crimes for which a teniente could be discharged were bribery or serious offenses.<sup>31</sup> Though the corregidor had the sole right of appointment, he did not have the sole right of removal, for the teniente could be removed only with the consent of the council. It is particularly stated that the corregidor could not withhold from his teniente either all or part of his salary in return for his appointment; indeed, heavy penalties were imposed on those who made any offers to the corregidor for the appointment. If any person was found guilty of this crime, he was to be fined three times the amount offered and disqualified from holding office; and in extreme cases he could be banished for ten years.<sup>32</sup>

The relations between the corregidor and the teniente were not always friendly. Not infrequently we find the two officials clashing as to jurisdiction, appealing at times to the audiencia itself. In the middle of the seventeenth century, we find Don Alonso Alaves, who was teniente to the corregidor of Mexico City, one of the leading jurists of his day, protesting energetically before the audiencia against the ruling of the corregidor in a certain case. It appears that the case had been brought up before Alaves while he was acting as teniente. The party suing was not satisfied with the decision rendered and appealed to the corregidor, whereupon the latter declared that

<sup>30</sup> Bovadilla, *Política de Corregidores*, book I, chap. XVI.

<sup>31</sup> Villadiego, *Instrucción Política*, pp. 169, 173.

<sup>32</sup> *Ibid.*, pp. 186-187.

Alaves had no jurisdiction in the case because he had been attorney for one of the parties in litigation. Alaves protested that his having acted as attorney for one of the parties in another case did not disqualify him in the present, which had no relation whatsoever with the former, other than the fact of his former client being involved.<sup>33</sup>

Turning to the general duties of the corregidor, we find that the first injunction placed upon him was to observe all the provisions of his appointment and the general rules and regulations that applied to his office. As the new corregidor usually acted as the judge of the residencia of his predecessor, his first duty was to issue a public declaration or *pregón* concerning the findings of the residencia and laying down the principles of good government which he expected to observe and enforce during his administration. In the assembly hall of the regimiento, the corregidor was to have a seat higher than that of any regidor in keeping with the dignity of his office. He was enjoined to hold public court frequently, to see that the poor were fed and that the vagabonds were forced to work under penalty of banishment from the district, to punish the guilty, to honor the virtuous, to keep the rich from oppressing the poor, and to be impartial in all his dealings.<sup>34</sup>

In matters pertaining to the welfare of his district, he was to consult the regimiento or the king whenever in doubt. He was to prohibit all forms of gambling within his jurisdiction and to prevent money lenders from charging usurious interest. Night shows and immoral plays were to be prohibited, and day shows not allowed to remain too long at once place. In those cases which were not covered by his instructions or by the law he was to observe common usage and practice. The king and his council were not to be consulted except in very serious cases.<sup>35</sup>

<sup>33</sup> "Defensa de jurisdicción de el teniente de Corregidor", MS. in the García Collection, University of Texas.

<sup>34</sup> Villadiego, *Instrucción Política*, pp. 149-150.

<sup>35</sup> *Ibid.*, pp. 150-152.

An order from the king or his council had precedence over law or common usage, and it had to be put into execution without delay. Failure to observe a royal order at once brought upon the corregidor the penalty which he was ordered to impose upon the culprit. When the royal order was an open and obvious violation of human and divine law, the corregidor could delay the execution by remonstrating against it, but if a second order were issued he had no choice in the matter. All such orders had to be acknowledged, though the execution could be delayed in case a remonstrance were made.<sup>36</sup> These regulations show the absolute power of the king arising from the theory of divine right.

The corregidor was expected to inspect the boundaries of his jurisdiction, though he did not have to do it in person, for he could send his teniente in his place. No charge was to be made for this service, nor for the *visitas* which he was obliged to make to the various villas and pueblos within his jurisdiction. The visitas, like the inspection of the boundaries of his district, could be made by the teniente, but in neither case could any extra charge be made upon the people for this service.<sup>37</sup>

Before taking up his duties as judge, it is well to note that the corregidor collected certain royal revenues. Certain fees and fines were to be turned over to the king's treasury. Furthermore, he had to collect certain revenues which went to the *hacienda fiscal*. It was his duty to keep a special book in which all the fees imposed and collected for the royal treasury were set down. All such funds had to be turned over to the *receptor* who kept a similar book. The corregidor was forbidden to use this money and heavy penalties were prescribed for his failure to observe this injunction.<sup>38</sup> That this restriction was a dead letter, we shall see when we discuss his abuses.

<sup>36</sup> *Ibid.*, p. 165.

<sup>37</sup> *Ibid.*, p. 176.

<sup>38</sup> *Ibid.*, pp. 183, 185, 277.

While holding court he was not to permit idle words or the use of abusive language. Every person was to be allowed to speak at the appointed time, but no one was to speak out of turn. When any person spoke the corregidor was to allow no interruptions. During court no notary or other person was to be allowed to whisper anything to the corregidor, for such an incident could give rise to a wrong interpretation of the motive. The corregidor was to order the alguaciles [deputies] and the notaries to be present at court. If a defendant was unable to provide his own counsel, the corregidor was to supply him with an attorney. He was warned not to delay the course of justice. He was advised to give first consideration to cases involving orphans, helpless and destitute persons, foreigners, and widows. A temporary opinion had to be rendered on all cases six days after all the evidence had been presented, and a final decision made within twenty days.<sup>39</sup>

In all judicial matters he was advised to look well as to what he provides, to see that his action is justified and directed to the accomplishment of justice,<sup>40</sup>

for once a decision was given it was irrevocable. Being the highest judge within his jurisdiction, he was to coöperate with all other judicial officers, particularly with the *juez pesquisidor* or special investigation judge. If such an officer should exceed the powers granted him by his special commission, the corregidor could have him arrested. In such cases, however, it was advisable that the council be immediately advised of the reasons that prompted such a measure.<sup>41</sup>

Friction between the corregidor and the pesquisidor must have been common, and the latter must have used his special powers to oust the former, for special care is taken to state that no pesquisidor may be appointed corregidor of the district where he has carried out a special investigation. On the

<sup>39</sup> *Ibid.*, p. 153.

<sup>40</sup> *Ibid.*, p. 63.

<sup>41</sup> *Ibid.*, pp. 68-69.

other hand, the corregidor was in duty bound to carry out what the pesquisidor ordered and to arrest such delinquents as he named, even if convinced of their innocence.<sup>42</sup>

Whenever ecclesiastic and civil jurisdiction clashed, the corregidor was to exercise extreme tact and diplomacy, and to show marked deference and respect for the ecclesiastical judge. If the latter took unjust or unfair action against the acts of the corregidor in any given case, he was to report the whole matter to the chancery or the council, giving in detail an account of all he had done in the matter. Such an appeal had to be made at the earliest opportunity, in order that the council might have full information of the case beforehand.<sup>43</sup>

Neither the corregidor nor his teniente could sit as judges in any case to which they were a party, nor could either act as his own attorney.<sup>44</sup>

Important as the judicial powers and duties of the corregidor were, his legislative duties were still more important. Little or no attention has been paid to this phase of his activities. The corregidor could pass ordinances affecting local administration, and these had the same force as law; but to frame such ordinances, it was necessary that two-thirds of the regimiento be present. Both in the *Leyes de Indias* and in the various commentaries we find it clearly stated that the legislative functions of the regimiento were dependent upon the corregidor on the one hand and on its own organization on the other, the former representing the king and the latter the people.<sup>45</sup> The corregidor could make regulations pertaining to judicial matters without the consent or the intervention of the regimiento, but in all other matters, the two had to act together. This illustrates the dual character of the legislative power in the regimiento or city council.

<sup>42</sup> *Ibid.*, pp. 70, 75.

<sup>43</sup> *Ibid.*, pp. 85-86.

<sup>44</sup> *Ibid.*, p. 167.

<sup>45</sup> *Ibid.*, p. 190; *Recopilación de Leyes*, book V, tit. II.

The method of procedure to be followed in framing legislation is given in detail. The corregidor proposed to the regimiento the ordinances to be considered or amended. Thus the right of initiating legislation was vested in the corregidor. The measures proposed by him were then discussed freely by the regimiento; and if approved by a majority, two-thirds of the members being necessary for a quorum, the ordinances were written in the minutes and a copy sent to the council as a matter of record and for confirmation. Upon receipt of the confirmation, the new ordinance was publicly announced through the town crier, and the measure became effective within the entire jurisdiction of the corregidor.<sup>46</sup> The council usually approved all such ordinances unless they encroached upon the prerogatives of the king or were opposed to any of the existing laws. Thus the corregidor and the regimiento had full legislative power in all local affairs such as irrigation, labor conditions, public works, street regulations, and various other matters.

The vote of the corregidor was equal to the votes of the entire regimiento, for the two were taken to be individual units, all the members of the corregimiento being considered collectively as one. Thus in case of disagreement between the regimiento and the corregidor, the latter's vote could suspend the measure from being approved. It then had to be submitted to the royal council which had the deciding vote in the matter. This was true only of ordinances, however, affecting the welfare of the entire district; for in the case of measures affecting only the immediate locality where the regimiento sat, a majority of votes on the part of the regidores was sufficient to make the ordinance effective. In all such cases, the reasons of the corregidor for opposing the measure were to be included in the minutes of the session and the votes of the regidores recorded pro and con. But if an ordinance affecting local administration were passed unanimously by the regimiento

<sup>46</sup> Villadiego, *Instrucción Política*, pp. 190-191.

against the opposition of the corregidor, the latter could require that it should be recorded in the minutes of the session with a statement that the measure had been approved by all the regidores but not by the ayuntamiento or regimiento, as that would include him.<sup>47</sup>

The ayuntamiento could not convene without an order from the corregidor. He had to be present at all meetings either in person or through a representative, usually his teniente. He (or his representative) could not absent himself from a meeting even when he was the subject of discussion, for fear that in such absence the regimiento might conspire against the king.<sup>48</sup>

The regimiento was allowed full freedom in the election of its members and such officers as it had the right to elect. The corregidor had no right to use his influence in securing the election of any person, but he had to abide by the choice of the regimiento.<sup>49</sup>

It was provided that if the corregidor failed to carry out a royal order or command from the king, the regimiento could in such cases assume executive power and put the order into execution without the intervention of the corregidor. The corregidor was so powerful, however, that we have come across no instance where the regimiento exercised such a power or forced the corregidor to carry out a royal order or fulfill his instructions.<sup>50</sup>

In addition to the judicial and legislative powers discussed, the corregidor had certain supervisory duties which were very important. He was to see that there was a good supply of bread within his jurisdiction. He had the right to regulate the price of grain in order to keep profiteers from making undue profits. In time of famine or shortage, he could prohibit the exportation of grain from his district and compel

<sup>47</sup> *Ibid.*, pp. 191-192.

<sup>48</sup> *Ibid.*, pp. 256, 261.

<sup>49</sup> *Ibid.*, pp. 192-194; *Recopilación de Leyes*, book IV, tit. X.

<sup>50</sup> Villadiego, *Instrucción Política*, p. 193.

those who had any to sell it to the people within his jurisdiction at a just and reasonable price.<sup>51</sup>

It was his duty to inspect the meat markets and to see that only good meat was sold. He was supposed to make a visit daily, and he had the right to condemn any meat which in his judgment was unfit to be sold. Such meat was to be taken out of the town and buried officially to prevent its being distributed surreptitiously. This important article of food was to be sold only in official meat markets. He was to inspect likewise all vegetables brought to market and condemn any which were too old or in any way unfit for use. The same supervision was to be exercised over milk which, it seems, was even at that time adulterated by the addition of water. Wine and oil were in those days important articles of food. The corregidor was supposed to inspect both articles and if the oil were rancid or too dirty, he would condemn it, while the wine had also to be in good condition.<sup>52</sup>

The corregidor could and did regulate the price of all food-stuffs within his jurisdiction. He could not exercise this power in regard to general merchandise, however. It is easy to see that with so many duties and powers, the opportunities for abuse were indeed great.

As if the duties enumerated were not enough, the corregidor had still to maintain the streets, as well as the plazas and public buildings, and the disposal of waste and garbage. The streets were to be paved whenever possible with cobble stones.<sup>53</sup> That the corregidores did this part of their duty well is proven by the number of old cobble stone streets which the traveler encounters today in the little towns and villas of Mexico.

Having noted the powers and duties of the corregidor, let us now turn to his salary and fees. A corregidor was to re-

<sup>51</sup> *Ibid.*, pp. 195-196; *Recopilación de Leyes*, book V, tit. II.

<sup>52</sup> Villadiego, *Instrucción Política*, pp. 200-201; *Recopilación de las Leyes de las Indias*, book V, tit. II.

<sup>53</sup> Villadiego, *Instrucción Política*, p. 201.

ceive the salary assigned him in his appointment, but if no sum was stipulated, he was to receive the same amount as his predecessor.<sup>54</sup> In the case of the more important corregimientos the salary was relatively high. For example, the corregidor of Mexico City received 500,000 maravedis (about 2,500 pesos); the corregidor of Cuzco received 3,000 pesos of pure silver; the corregidor of Villa de Santiago received 1,000 pesos; the corregidor of San Marcos, 1,500 pesos; the corregidor of Guamanga, 2,000 pesos.<sup>55</sup> But in the average corregimiento the salary was not sufficient to compensate the corregidor for the trouble and expense of going to America. In case of death while in office, his heirs had the right to demand the complete salary for the full time of his appointment even if he had served only a month.<sup>56</sup> The same privilege was enjoyed by the teniente.

In case of removal of either of the two officials for a justified cause, his salary was prorated to the time of removal. Though the corregidor was allowed to absent himself from his jurisdiction for a period of ninety days each year, he was required to secure permission from the regimiento before taking such leave, even when illness and the necessity of medical treatment made his absence imperative. Failure to observe this regulation was sufficient cause for the suspension of his pay for the period of his absence. Should he overstay his leave, he could be penalized by the loss of his salary during the period of illegal absence. The practice of absenting themselves from their jurisdictions must have been common, for we find heavy penalties imposed for this irregularity. For every day in excess of the ninety allowed by law with the consent of the regimiento, he was to be fined double the amount of his pay per day. Furthermore, to overstay his leave of absence was sufficient cause for his tenure of office to cease.<sup>57</sup>

<sup>54</sup> *Ibid.*, p. 158.

<sup>55</sup> *Recopilación de Leyes*, book V, tit. II, law I.

<sup>56</sup> Villadiego, *Instrucción Política*, p. 158.

<sup>57</sup> *Ibid.*, p. 158.

However, if he were absent on a special mission of the council, the audiencia, the chancery, or the king, the limit of ninety days prescribed by the law was not effective and he enjoyed his full salary regardless of the time he was away. During any and all absences the corregidor had to leave a teniente in his place. This officer was to exercise the same authority as the corregidor in his absence. All the other judicial officers were obliged to recognize him as the representative of the corregidor.<sup>58</sup>

As early as 1536, we find a royal cédula, addressed to the audiencia of New Spain, commanding that the corregidores be made to live within their jurisdictions, and that they be not allowed to leave their districts under any consideration.<sup>59</sup> Each corregidor was allowed to choose the seat of his government when there was more than one town within his jurisdiction; but in all such cases he could reside wherever he thought best.<sup>60</sup>

The corregidor could not borrow money from any person within his jurisdiction, nor could he lend to any one. The acceptance of gifts or favors of any kind for the expedition of business was strictly prohibited. Violation of either of these regulations was sufficient cause for removal.<sup>61</sup>

At the expiration of his term of office, a residencia was held by the special judge sent for the purpose. Customarily, the successor conducted the residencia. The judge who was to conduct the residencia trial presented his credentials to the ayuntamiento and demanded that the corregidor and his officers obey the instructions of the king. The corregidor took the orders as the head of the ayuntamiento, placed them over his head, and kissed them in token of his submission to the

<sup>58</sup> *Ibid.*, p. 159.

<sup>59</sup> *Colección de Documentos Inéditos relativos al descubrimiento, conquista y organización de las Antiguas Posesiones Españolas de Ultramar* (Madrid), 2nd series, X. (1897), 316-317.

<sup>60</sup> Villadiego, *Instrucción Política*, p. 159.

<sup>61</sup> *Ibid.*, pp. 160-161.

royal will. The secretary then read the orders and instructions, and the corregidor, the teniente, and the alguaciles declared their readiness to obey the king's command. After this ceremony the corregidor delivered the *vara de justicia* to the residencia judge.<sup>62</sup>

At the same meeting, or at one called not later than three days after this ceremony, the residencia judge read his special commission, which was recorded in the minutes of the ayuntamiento. The *procurador general* then demanded a bond from the residencia judge if the latter were to succeed the corregidor in office. The trial of the residencia was limited to thirty days. The corregidor was first required to give an account of all his acts while in office. Then all who had any complaints against him were asked to present them. All secret and public complaints had to be presented before the expiration of the fifteenth day. The next five days were used for the formal presentation of the charges that resulted from the evidence collected. The last ten days were to be used for the disposal of the cases brought up. After the expiration of the first twenty days of the residencia, no new charges or evidence could be presented.<sup>63</sup> The expenses of the residencia were borne by the council, to which an accurate and detailed account of all expenses incurred had to be submitted for its approval.<sup>64</sup>

In case of death before the expiration of his term, the corregidor was succeeded by his teniente, who discharged all his duties until a new corregidor arrived. Before turning the office over to the new appointee, the teniente had to undergo a residencia trial, not only for the period which he served as corregidor, but for the administration of his superior.<sup>65</sup>

From the theoretical powers and duties of the corregidor it is evident that his range was vast and the possibilities for

<sup>62</sup> *Ibid.*, p. 270.

<sup>63</sup> *Ibid.*, pp. 272-296.

<sup>64</sup> *Ibid.*, p. 298.

<sup>65</sup> *Ibid.*, p. 275.

abuse correspondingly great. This was particularly true of the corregidores in distant districts where all those who were within their jurisdiction were in the main Indians. In Peru, particularly, abuses date from the earliest times. In 1622, in a memorial on needed reforms in that kingdom, we read:

The corregidores in that kingdom are like locusts in Castile. Wherever they go they consume everything and lay waste the land. All the Indian corregimientos, and there are many, each one covering a large area, have royal funds in deposit controlled by the corregidores. There are deposits amounting to more than 100,000 ducats and even more, which rightfully belong to the royal treasury, but in spite of this fact such funds are never sent to Castile for your Majesty to dispose of it as you see fit. On the contrary, it is kept as the private capital of the corregidores who use it in their business and enterprises. Their business deals are of such magnitude that these officials should be called wholesale merchants rather than corregidores. Each one of them deals in the merchandise common to his respective district, while all of them introduce large quantities of wine to sell to the natives at excessive prices.<sup>66</sup>

A common abuse among them was to force the Indians to work for them without remuneration, keeping the poor natives from tending their own fields. Furthermore, they forced the Indians to sell their grain and produce at prices below the market value and then shipped these products to other districts where there was a shortage, making enormous profits. Both of these practices are specifically condemned in the *Leyes de Indias* and heavy penalties imposed on those who were found guilty of them; but as the judges of the residencias were paid a handsome sum, practically all the corregidores were acquitted without a blemish.

The *Memorial* already cited continues:

<sup>66</sup> Juan de Aponte Figueroa, *Memorial que trata de la Reformación del Reino del Pirú*, in *Colección de Documentos Inéditos para la Historia de España* (Madrid), LI. (1867), 324-326.

The corregidores have opened gambling houses which they run personally and publicly. They lend money to the gamblers, and this is the cause of the ruin of many persons who lose their estates and their honor.<sup>67</sup>

Another common practice of the corregidores which we find mentioned was to have the silver made into beautiful ornaments and plate by the natives who, as is well known, were excellent silversmiths. These articles were then sold at high and profitable rates by the corregidores. Moreover, they bought the raw silver without paying the corresponding tribute to the crown and sold the finished product without paying any tax, thus depriving the crown of the legal impost on raw metals, silver plate, and ornaments.<sup>68</sup>

Describing the various methods employed by the corregidores to amass large fortunes during their term of office, we find the following statements in the *Noticias Secretas de América*:

Many are the means employed by the corregidores to enrich themselves at the expense of the Indians. Among these, one may begin with the collection of tribute. . . . In the province of Quito it is done in one of two ways: in the name of the king, or in the name of the corregidor. When done by the latter the public crier announces the collection of tribute and the contract for collecting it is then awarded to the highest bidder who is usually the corregidor himself. He assumed no other obligation than to turn over to the *Caja Real*, the lump sum stipulated in the contract on the dates when each third falls due. He does not have to give a detailed account of the actual amount collected. They force minors to pay tribute as well as those who are past fifty-five, the age limit for the paying of tribute. . . . Some Indians are forced to pay tribute twice. This is the case when an Indian does not have a permanent residence. He is forced to pay his personal tribute several times over by the collectors of the corregidor in the various sections within his jurisdiction where the Indian may be found.

<sup>67</sup> *Ibid.*, p. 324.

<sup>68</sup> *Ibid.*, p. 325.

The iniquity practiced against the Indians is still greater when it comes to judicial trials. These judges desire nothing more than a suit or complaint to leave the parties involved completely ruined . . . either with fines, or through fees; they succeed in obtaining from the rightful owner his mule, his cow, or whatever other property he may own. This endless extortion has reduced the people to such misery that it cannot be compared with that of the most wretched people in the world.

With the corregimiento of Loxa begins the inhuman system of *repartimientos*.<sup>69</sup> It is true that the corregidores are authorized to introduce into their corregimientos certain goods to be distributed among the natives at reasonable prices. The way this privilege has been interpreted, it deserves now no other name than that of the most tyrannical and horrible extortion that can be imagined.

The corregidor begins his administration by taking up a census of the Indians in every pueblo within his jurisdiction. While engaged in doing this he takes along with him the merchandise which he intends to distribute. He assigns to each Indian the amount and kind of goods which he thinks proper. He fixes the price of each article given in the most arbitrary manner. The Indians have no idea of what they have to pay for the merchandise received. After he had finished the distribution in a pueblo, he gives the cacique a list of the persons and of the goods assigned to each with their cost which he is to collect and for which he is personally responsible.<sup>70</sup>

The report further explains in detail the great suffering endured by the Indians as a result of this system of *repartimiento* of merchandise. The Indians were required to pay the entire amount assigned them for the goods received within two and one-half years, at which time the corregidor made a new *repartimiento*, thus collecting twice from the Indians during his term of office for goods which the Indians had not ordered and in reality did not need and never used.

<sup>69</sup> *Repartimiento*, as used here does not have the generally accepted meaning of the distribution or apportionment of land and Indians to the conquistadores, as will be seen by the context of the remainder of the passage quoted.

<sup>70</sup> Jorge Juan y Antonio de Ulloa, *Noticias Secretas de América* (London, 1826), pp. 229-244.

The *repartimiento* was not limited to merchandise alone. The mules and other stock used for the transportation of the goods from pueblo to pueblo were assigned to the Indians at an arbitrary price after the goods were disposed of. The animals were in such a poor condition that they were generally practically useless. The Indians were forced to accept them, however. Any attempt to resist these injustices was severely punished.

As an example, an incident is cited in which five mules were assigned to an Indian chief. The animals were in such a deplorable condition that he refused to accept them. The agent of the corregidor tied them to the fence post of the Indian's house and left them there. Next morning, one of the mules was dead. The corregidor forced the Indian to pay for the five mules regardless of the circumstances.

The *Noticias Secretas* then discusses the methods used by the corregidores for their acquittal from the residencia trial. It seems that they sent special agents to the court of the viceroy, who interviewed the *juez de residencia* and came to some agreement before he set out for the jurisdiction of the corregidor. The judge of the residencia, whether appointed by the council of the Indies or by the viceroy, had to register or record his appointment with the secretary of the viceroy. It was generally agreed that the judge was to receive a certain present in consideration for a speedy and favorable residencia.

It is said that a certain viceroy of Peru who was fond of gardening and who would get up early in the morning to indulge his whim, was accosted one morning by a stranger who, mistaking him for his majordomo, proffered him a liberal sum to use his influence with the viceroy for the appointment of a certain man as *juez de residencia* and corregidor. The viceroy did not disclose his identity but gave definite instructions to his majordomo that all prospective corregidores or their agents be sent directly to him. When the viceroy turned over the reins of government to his successor after a period of

fourteen years, it is said that he had amassed one of the largest fortunes in Peru, though he had been a very honest administrator as a whole. This well illustrates the enormous income which was derived from the patronage or privilege of appointing corregidores.<sup>71</sup>

There was a certain town in Peru where the customary present given to the judge of the residencia and future corregidor was 4,000 pesos. It is said that in the office of the corregidor there was a bag containing 4,000 pesos which had not been opened for many years, because each corregidor handed it to his successor as a present, who, knowing that at the expiration of his term, he would have to pay a similar sum to his successor, kept it intact. Thus the bag had been handed down from corregidor to corregidor since time immemorial, no one troubling himself to rectify its contents, satisfied that he would have to pass it on to his successor at the appointed time.<sup>72</sup>

Many efforts to improve conditions were made, but all were unavailing. Some of the reasons for the failure to cope with the situation can be easily deduced from the great number of powers and duties of the corregidor. Dealing with an ignorant and abject people, such as the Indians in America were, it is natural that unscrupulous men should exploit them to the limit and without fear of man or God. It was not until the entire system was abolished and the *intendentes* established, that some of the evils were corrected. This was not accomplished, however, until after two hundred and fifty years of misgovernment, during which time the poor Indian, the victim of such inhumane extortions, had been thoroughly broken in body and spirit. Such treatment must be a factor in the lack of ambition, and the passive, fatalistic attitude of the present-day Indian in Spanish America.

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<sup>71</sup> Ricardo Palma, *Las mejores Tradiciones Peruanas* (Barcelona, n.d.), p. 307.

<sup>72</sup> *Noticias Secretas de América*, pp. 259-261.

## THE FALKLAND ISLANDS DISPUTE BETWEEN THE UNITED STATES AND ARGENTINA

The Falkland Islands lie about 300 miles due east of the Magellan Straits and 1,200 miles south of Buenos Aires in the South Atlantic Ocean. Most of these islands were bleak and barren and not well suited for colonization, but they were of considerable importance because of their spacious harbors and the rich fur-seal and whale fisheries in the waters surrounding them. The Falkland Islands had been a favorite resort for intrepid Yankee fishermen since shortly after the American Revolution.

This group of islands had been sighted first in 1592 by the daring English seaman, Captain Davies. Several names were given them during the years intervening from that time to this. They were given the name "Maiden Land" in 1594 by Captain Hawkins in honor of Queen Elizabeth, "Sebald Islands" by the Dutch seamen, Verhagen and Sebald de West, in 1598, and in 1689 they were given their present name by the Englishman Captain Strong. The French, in the early part of the eighteenth century, laid claim to the islands and started a settlement. They gave them the name "Malouines Islands" after the port of St. Malo, France, from which the colonists set sail. This name was adopted by the Spanish as the "Malvinas Islands".

Commodore Byron took formal possession of the Falkland Islands in the name of Great Britain on January 23, 1765, and a settlement was started at Port Egmont in 1766. This settlement was broken up in 1770 by a Spanish force sent out by the viceroy of Buenos Aires, but his action was disavowed by the Spanish government. Great Britain again took possession, but finding the Islands rather uninhabitable and a settlement unprofitable it abandoned the attempt in 1774, claiming, how-

ever, not to have relinquished possession. Robert Greenhow, writing on "The Falkland Islands" in 1842, stated that the government of Great Britain had unofficially agreed with the Spanish government to abandon the settlement at Port Egmont soon after being repossessed of it.<sup>1</sup>

At this point the active political history of the Islands ceased until, in 1820, possession was formally taken in the name of the United Provinces of South America by Colonel D. Jewett, commanding the ancient frigate *Heroina*. The *Salem Gazette* of June 8, 1821, printed a circular letter received by Captain W. B. Orne of the schooner *General Knox* of Salem which had just returned from the Falkland Islands. This letter, sent from the national frigate *Heroina*, Port Sole-dad, Falkland Islands, on November 9, 1820, and signed by Colonel Jewett, stated:

Sir, I have the honor to inform you of my arrival at this port, to take possession of these Islands, in the name of the Supreme Government of the United Provinces of South America. This ceremony was publicly performed on the sixth day of this present November, and the National Standard hoisted at the Fort, under salute from this Frigate, in the presence of several citizens of the United States, and subjects of Great Britain.<sup>2</sup>

On November 9, 1820, Captain Jewett sent out a note advising the foreign governments of the ceremony spoken of above and, as no objection was ever received, the government of Buenos Aires appointed a governor for the Islands in 1823 and deeded tracts of land there to some of its citizens for the purpose of colonization. This attempt at colonization did not succeed and all the rights and duties under this decree reverted to the government.

Louis Vernet, French by birth but a naturalized citizen of Buenos Aires, came into the history of the Islands in 1824,

<sup>1</sup> Robert Greenhow, "The Falkland Islands", printed in Hunt's *Merchants' Magazine of Commerce*, February, 1842.

<sup>2</sup> *British and Foreign State Papers*, XX. 422 n.

and from that time on until Captain Duncan of the United States Navy broke up his settlement, he displayed the most dogged perseverance and considerable ability in his attempt to build up a colony there. Disappointments and obstacles caused several of his associates to give up the project, but Vernet put all of his energy into the task and was succeeding. At one time he had a colony of ninety people, and had made several valuable shipments of seal skins to Buenos Aires. He was, in fact, well on the way toward permanent success in his project. In 1828, the government of Buenos Aires issued a decree ceding the Islands, with a few small exceptions, to Vernet, giving him three years to establish a colony, exempting this colony from taxes, and giving it free use of the fisheries for a period of twenty years. The purpose of this decree, as stated in it, was to populate the Islands, utilize the fisheries, and provide a safe harbor for privateers (Argentina was at war with Brazil at that time).<sup>3</sup> Vernet was thorough in his work, planning for a permanent settlement. He brought good livestock to the Islands and took pains to increase, as much as possible, the comfort of the colonists. He had a library in his own home and a piano on which his wife, a cultured Spanish lady, played to the delight of the residents in, and visitors to, Port Soledad.

On June 10, 1829, a decree was issued by the government of Buenos Aires which stated the grounds on which it claimed possession of the Falkland Islands, namely, that title passed from Spain to it because Spain had governed the Islands as a part of the Province of the Rio de la Plata, and when this province gained its independence from Spain all of the territory that had been under the viceroy at Buenos Aires passed to the new government. It was stated in the decree that although the circumstances of the revolution and the war with Brazil had prevented Buenos Aires from actively utilizing the Islands, it had, by several acts of sovereignty shown its inten-

<sup>3</sup> *British and Foreign State Papers*, XX. 420.

tion to do so, and now, in order that the advantages which the Islands afforded might be enjoyed, and the protection which the inhabitants of the Islands needed and to which they were entitled be furnished, it was decreed that the Islands should be under the command of a political and military governor who should reside on Soledad Island, and that this political and military governor should cause the laws of the republic to be observed and provide for the due performance of the regulations respecting the seal fishery on the coasts. Louis Vernet was given this post. The regulations respecting the seal fishery on the coasts had been issued in a decree of October 22, 1821. They applied to the Patagonian coast, as first issued, and had provided for preferential duties on shipments of seal skins and other products of the fisheries in favor of the citizens of the Province of the Rio de la Plata. Other sections of the decree were intended to encourage fishermen from other countries to make settlements of a permanent nature on those coasts.<sup>4</sup>

It was the practice of the fishermen to land on the coasts of Falkland Islands and there to kill the seal by clubbing and other brutal methods, and to take such care of the skins thus obtained as would permit returning to their home ports in the United States or other countries to sell them. While on the islands these fishermen usually butchered some of the live-stock which remained from the various attempts at colonization. In 1829 and again in 1830, under the authority of the decree of June 10, 1829, Vernet warned the *Harriet*, an American schooner, against the use of the shores and against the killing of the seals. When, therefore, in July, 1831, the *Harriet* was again found at the islands violating the regulations which Vernet had been instructed to enforce, he arrested Captain Davison and held his vessel and crew in Port Soledad. In the following month, Vernet arrested two other American vessels, the *Breakwater* and the *Superior*. The *Breakwater* soon

<sup>4</sup> These two documents are found in *British and Foreign State Papers*, XX. 324 n and 421 n.

escaped and was brought to the United States by the crew. The *Harriet* was taken by Vernet to Buenos Aires for trial as a prize. The *Superior*, through agreements between Vernet and the captains of the captured vessels, had gone around Cape Horn to take advantage of some newly discovered fishing grounds. When the *Harriet* arrived at Buenos Aires, Captain Davison reported to the American consul there, George W. Slacum. There was no diplomatic representative of the United States in Buenos Aires at the time. Minister Rodney died in that city in 1824 and Chargé John M. Forbes died there just five months before the *Harriet* came into port under arrest. No one had as yet been appointed by the state department to fill the place of either man.

The *Harriet* arrived at Buenos Aires on November 20, 1831, and on the next day Consul Slacum wrote to the minister of foreign affairs expressing himself as being at a loss to know

upon what possible ground an American vessel, while engaged in a lawful trade, should be captured by an officer of a friendly government.<sup>5</sup>

The minister of foreign affairs replied on the twenty-fifth stating that the matter was being investigated in the proper way and nothing more could be said on the subject until a decision had been reached. It was here that the bluntness and lack of consideration often displayed by American foreign representatives came into evidence. Consul Slacum then wrote that the reply seemed to imply an avowal of the action of arresting the American vessel and,

It therefore only remains to him to deny *in toto* any such right, as having been, or being now vested in the Government of Buenos Aires . . . the Minister of Foreign Affairs will be pleased to receive this

<sup>5</sup> This letter and all of the correspondence between the two governments during 1831 and 1832 are found in "Papers relative to . . . the questions pending with the United States of America on the subject of the Malvinas Islands", Argentine Republic, Buenos Aires, 1832.

communication as a formal protest on the part of the Government of the United States . . . for the illegal and forcible seizure at the Falkland Islands aforesaid, by order of said Vernet, of the American schooner *Harriet*, as well as of the *Superior* and *Breakwater* . . . as also for the violent arrest and imprisonment of their officers and crews, American citizens, and for the consequences thereof.

To this blunt outburst the minister of foreign affairs replied that, "the communication of a consul cannot be received as a formal protest of the United States".

Just ten days after Captain Davison reported to Consul Slacum, the latter received a letter from Captain Duncan of the *Lexington*, an American naval vessel which had just anchored off the city. Captain Duncan had been stationed at Montevideo but upon the receipt of word from Consul Slacum of the arrest of the *Harriet* he hastened to Buenos Aires. He stated in his letter that he was going to proceed to the Falkland Islands to protect the citizens and commerce of the United States in the fisheries there. Slacum wrote to the minister of foreign affairs that Duncan would sail in three days unless he received a communication from the government of Buenos Aires suspending the right to capture American vessels. Duncan himself wrote to the minister of foreign affairs on December 7, requesting either the surrender of Vernet to the United States to be tried on a charge of piracy and robbery, or his arrest and punishment by the laws of Buenos Aires. The *Lexington* sailed for the Falkland Islands shortly before noon on the ninth of December and arrived there on the twenty-eighth. Duncan then spiked the cannon of the fort, destroyed the arms and ammunition of the colony, seized the property taken from the *Harriet* and the *Superior*, and arrested seven of the colonists whom he took to Montevideo where they were later set free. Witnesses declared that the *Lexington* entered the Port of Soledad under the French flag. Captain Duncan, also, posted a proclamation at the fort which declared that anyone who interfered with American fishing rights was a

pirate. The colony was as effectually destroyed as if it had been razed to the ground. The results of Vernet's tireless efforts were lost. Those were the circumstances which gave rise to claims of illegal and arbitrary action on the part of each government against the other. What did each government do?

The schooner *Breakwater* escaped from Vernet and came to the United States. The state department was notified by the crew of the *Breakwater* of the action of Vernet in arresting American vessels. President Jackson, in his message to congress on December 6, 1831, said:

In the course of the present year, one of our vessels engaged in the pursuit of a trade which we have always enjoyed without molestation has been captured by a band acting, as they pretend, under the authority of the Government of Buenos Aires.

He stated, further, that he had despatched a vessel to afford lawful protection to our commerce, and would send a minister to inquire into the nature of the circumstances and claims of that government.<sup>6</sup> The vessel and the special instructions which were to govern the action of our naval forces did not arrive until after Captain Duncan had destroyed the colony at Port Soledad. Rather, he had acted under general instructions for the protection of our commerce and fisheries.<sup>7</sup> Francis Baylies, sent as chargé d'affaires with special instructions from Secretary of State Livingston, did not succeed any better than Captain Duncan in acquiring the good will of the government of Buenos Aires or in reaching a solution of the problem. Baylies received three sets of instructions: the first dated January twenty-sixth, the next, February fourteenth, and the last, April third of the year 1832. Each set of instructions showed a little added knowledge of the circumstances of

<sup>6</sup> *Register of Debates in Congress*, 22nd cong., 1st sess., Appendix, p. 4.

<sup>7</sup> *Ibid.*, 22nd cong., 2nd sess., Appendix, p. 15. *Report of the Secretary of Navy*, December, 1832.

the case in the hands of the state department, but all showed a lack of adequate and reliable information.<sup>8</sup>

The instructions of January 26, showed that the information at hand at that date was simply that received from an affidavit of William Mitchell, probably of the schooner *Breakwater*. Baylies, in these instructions, was told that three American vessels had been captured by a "certain Vernet", who had acted under pretense of authority from the government of Buenos Aires by a decree dated about June 10, 1829. Vernet was stated to have claimed that these vessels had violated "some unknown laws" of the republic of Buenos Aires. If the decree was genuine, and if the government avowed Vernet's action, it should be pointed out to them that the representative of the United States in Buenos Aires, Mr. Forbes, should have been specially notified of the issuance of the decree, and that had not been done. Secretary Livingston expressed the belief that the pretense of a decree was a mere color for piratical acts. The secretary of the navy was ordered to send all the force he could command to those seas. The naval commander had orders to inquire into the authority for Vernet's acts, and if authorized by the government of Buenos Aires he should prevent further captures and retake those vessels already taken. Baylies, as chargé, was to show to the government of Buenos Aires the friendly spirit which dictated these orders, to secure our claims to the fisheries from further interruption, and to demand a disavowal of the acts of Vernet together with restoration of the property with indemnity. He was not to allow the incident to be an obstacle to the formation of a commercial treaty and was to secure a formal acknowledgment of our right to the fisheries and guarantee of the undisturbed exercise of that right thereafter. The remainder of the instructions were taken up with a statement of the claims of the United States to the fisheries and will be discussed later on in that connection.

<sup>8</sup> See the instructions to Baylies in *Sen. Exec. Doc.*, 32nd cong., 1st sess., No. 109, p. 8.

By the decree of 1828, Vernet had been made director of the colony at the Falkland Islands, and in that capacity had the right to contract with the schooner *Superior* to go on the fishing trip to the Pacific. By the decree of June 10, 1829, which had been published in the official journals and the papers of Buenos Aires to which Chargé Forbes had access and which he should have examined, Vernet had been made governor of the colony and therefore had authority to arrest those violating the laws of Buenos Aires within the limits of his jurisdiction. To take a vessel, arrested under that authority, to Buenos Aires was the only means Vernet had for getting judicial action. The decree of June 10, 1829, stated that the regulations respecting the seal fisheries on the coast were to be enforced in the Falkland Islands. It did not reprint those regulations, but they could by no pretext be called "unknown laws".

Some doubt is cast on the validity of Vernet's authority by the fact that the government under Lavalle, a revolutionary leader, which issued the decree of June 10, 1829, was displaced shortly after that date by another revolutionary government. Lavalle's administration of the government was declared to be intrusive and all of its acts disavowed. Under these conditions the government of Buenos Aires might have tried to evade responsibility for the arrest of the *Harriet* and other vessels by disavowing the decree. This it did not do, nor did it formally declare that full responsibility was accepted by it until February 15, 1832, after Captain Duncan had returned from the Falkland Islands to Montevideo. The government did, however, in its first reply to Slacum say that it was investigating the incident and could do nothing more until that investigation had been completed. The uncertain element introduced by the existence of revolutionary governments may thus be used to try to justify the measures taken by the United States naval officer.

The instructions of February 14 were written after word had been received of the arrival of the *Harriet* at Buenos Aires, a prize of the governor of the Falkland Islands. Word had also been received of the sailing of the *Lexington* to the Falkland Islands with the avowed purpose of protecting our commerce and disarming the band there. Baylies was given the task of justifying this purpose should it be accomplished. This justification was to be on the general grounds of the lawless and piratical nature of Vernet's acts as shown by the protest of the captain of the *Harriet*. This protest recited as some of the lawless acts, the imprisonment of the crews, leaving part of the crew of one of the vessels on a desert island with insufficient provisions, and the forcing of other of the sailors into Vernet's service. The imprisonment of men arrested for violation of the law was not unusual. The men left on the desert island had been left there by the American vessel before its arrest and had provisions sufficient to last six months. The provisions were thought sufficient, at any rate, so that Captain Duncan did not deem it necessary to hurry immediately to their succor even though he had stated that to be one of his reasons for leaving Buenos Aires so soon after having given notice to the government of his intended departure. The men said to have been forced into Vernet's service were acting under a contract signed voluntarily by the captains of the *Harriet* and the *Superior*. They were under the command of Captain Congar of the *Superior* and certainly were not under any compulsion, other than the honor of Captain Congar, to return.

The instructions of April 3 were written after the receipt of Captain Duncan's statement regarding the incident and his part in it. The instructions were:

It is proper you should, as soon as possible, know that the President has signified to Captain Duncan that he entirely approves of his conduct, under the circumstances, which he details.

The details as given by Captain Duncan agree with those related in the two previous instructions.

Baylies reached Buenos Aires in June, 1832, and on the twentieth of that month he wrote to Don Manuel V. de Maza, minister of foreign affairs, reciting the circumstances of the case as he knew them from his instructions. He spoke of the failure of the government of Buenos Aires to notify Chargé Forbes of the decree of June 10, 1829. He denied, as had Consul Slacum seven months earlier, the right of Buenos Aires to make the arrest at all. He demanded restitution of the captured property, indemnity for such seized, sold, or destroyed, and indemnity for personal wrongs. Vernet was charged with piracy, even though Baylies must have known of the avowal of the arrests by the government of Buenos Aires. On July 10, Baylies wrote a second letter discussing at length the claims of Buenos Aires to sovereignty over the Falkland Islands. Beginning with the earliest discovery of the Islands, he traced their history, through their occupation in 1764 by the French under Bougainville, the subsequent sale of the colony to Spain in 1766, the establishment of a British colony at Port Egmont in that year, and the objections of the Spanish government. This British colony was taken over by a force sent out by the viceroy of Buenos Aires in 1770, but the Spanish government disavowed the act and returned the property and colony to the British. Baylies drew the conclusion from these facts that Spain had had no right to sovereignty over the Falkland Islands, and that, therefore, the government of Buenos Aires could not succeed to any sovereignty over them.

Following his instructions of January 26, Baylies then argued the right of citizens of the United States to the fisheries in question. His argument centered around four points: first, the perfect right of the United States to the free use of the fishery—on the ocean, in every part of it, and on the bays, arms of the sea, gulfs, and other inlets which are incapable of

being fortified; second, the same perfect right to the free use of the fishery within a marine league of the shore, when the shores are possessed by savage tribes, or are totally deserted, as they are to the south of Rio Negro; third, the perfect right to the free use of the shores when in the same situation as above; and fourth, even where a settlement exists and other circumstances would deprive the United States of the right, a constant and uninterrupted use will give it to us.

To the first of these arguments there could be few exceptions taken, nor was the second or the third argument subject to question except where some nation enjoyed sovereignty over those shores and the territorial waters. It was at this point that the question as to the right of Buenos Aires to sovereignty over the islands became pertinent. It was pointed out to Maza, not only that Spain had had no right to sovereignty over the Islands, but that the British government had protested the decree of June 10, 1829, through its chargé d'affaires at Buenos Aires, Woodbine Parish. This protest was dated November 19, 1829. This communication protested such assumption of sovereignty by the government of Buenos Aires and stated that Great Britain, in abandoning the colony at Port Egmont in 1774, had not relinquished title to the islands.<sup>9</sup>

If we should assume that no one had sovereignty over the Falkland Islands, then it would be clear that American citizens had a "perfect right" to the use of the shores and the fisheries. Under those circumstances the act of Vernet as an individual in a commercial enterprise arresting American vessels would be, as claimed by the United States, a piratical act. Remembering, however, the act of sovereignty by Colonel Jewett in 1820, the subsequent acts of the government of Buenos Aires, the much discussed decree of June 10, which at the time of Baylies's letter had been avowed by the government, together with the warnings given the *Harriet* during

<sup>9</sup> *British and Foreign State Papers*, XX. p. 346.

the two previous years it becomes apparent that the argument of Chargé Baylies and of the state department was not sustained. This is especially true since the United States neither had, nor advanced any claim to, the islands in its own right. The protest against the action of Vernet, and the demand for reparation were justifiable. The action of Captain Duncan, however, cannot be justified on the grounds of questionable sovereignty on the part of Buenos Aires. Any such justification would have to be on the grounds that the government of Buenos Aires had not assumed responsibility for the arrests. The difficulty is that the measures taken by Captain Duncan exceeded in severity the requirements of the situation, especially in view of the investigation which the government stated was started and which Duncan could not say was unduly delayed. The representatives of the United States flatly denied the claim of sovereignty put forward by the government of Buenos Aires, but a few years later, when Great Britain was in possession of the islands, two secretaries of state carefully refrained from any expression of opinion on the subject.

The right of the citizens of the United States to the use of the unsettled shores of the islands was further supported by quoting the provisions of the convention of 1818 with Great Britain whereby the United States was granted

liberty forever to dry and cure fish in any unsettled bays, harbours, and creeks of the southern part of the coast of Newfoundland and of the coast of Labrador.<sup>10</sup>

The treaty of Utrecht in 1713 giving to the citizens of France the right to some of the Newfoundland fisheries was also cited. The whole argument on the fishing rights sounds like the Adamses negotiating with Great Britain for the fishery rights in 1782 and in 1814. Vernet contended in his report that these provisions were treaty concessions and did not prove a "right". The British negotiators in 1814 at Ghent intended

<sup>10</sup> Malloy, *Treaties, Conventions, . . . of the United States*, I. p. 631.

to make the granting of fishing privileges the object of an equivalent in the shape of the right to navigate the Mississippi River. Lord Bathurst, in a letter to John Quincy Adams, while the latter was still ambassador in England, stated that the word "liberty" was used in the treaty of 1783 to denote what the United States was to enjoy as a concession strictly dependent on the treaty itself.<sup>11</sup> John Adams, as one of the commissioners in Paris to negotiate the treaty of 1783, put all of his energy into the attempt to have the "right" to the fisheries acknowledged by Great Britain, but he had to content himself with the "liberty" to fish. In the convention of 1818 the word "liberty" was used in contradistinction to the word "right". The government of the United States, since its experience in the Halifax commission of 1877, the fur seal arbitration of 1892, and the North Atlantic fisheries arbitration of 1909 would scarcely make such a contention, nor would it contend that an uninterrupted use of the shores and inshore fisheries for fifty years gave the right to the continued use of those fisheries, free from interruptions.

On August 8, 1832, Maza addressed a long protest to the state department against the action of Captain Duncan. Soon afterward he wrote to Chargé Baylies condemning Captain Duncan and demanding "prompt and ample satisfaction, reparation and indemnity for all damages and losses incurred". He sent with this letter a copy of the "Report" of the political and military commandant of the Malvinas Islands, Louis Vernet. Baylies refused to open this report and on August eighteenth he requested his passports.

A further complication then entered into the situation. On January 3, 1833, Captain Onslow of the British navy commanding H. M. S. *Clio* took possession of the Falkland Islands for Great Britain, and this possession has been maintained to the present time. The Falkland Islands are now a crown colony, with a population of about 2,000 people and an average

<sup>11</sup> Moore, *International Arbitrations*, I, pp. 705, 707.

annual foreign trade of about \$900,000.00. In 1840, Brigadier General Carlos M. de Alvear, envoy extraordinary of Argentina to the United States, the first minister of Argentina to the United States and at that time on his third assignment at Washington, requested reparation for the conduct of Captain Duncan. Daniel Webster, who was at that time secretary of state, replied on December 4, 1841, that the propriety of suspending a decision on the matter still further was obvious, even if it should be allowed for argument's sake, that Captain Duncan had no reason to doubt that the Argentine government had, at the period mentioned, a colony at the Falkland Islands and took the action notwithstanding. Furthermore, since Great Britain had assumed possession by title antecedent to the acts of Captain Duncan, Webster thought a final answer ought not to be given until a settlement was reached between Argentina and Great Britain.<sup>12</sup>

The question was again brought up in 1886 when Mr. Bayard was secretary of state. He replied to Mr. Vicente G. Quesada, minister from Argentina, that the United States could not take up the settlement of the claim presented against this country, since there was a controversy on between the Argentine Republic and Great Britain in regard to sovereignty over the Falkland Islands. Bayard said, further:

The question of the liability of the United States to the Argentine Republic for the acts of Captain Duncan in 1831 is so closely related to the question of sovereignty over the Falkland Islands that the decision of the former would inevitably be interpreted as an expression of opinion on the merits of the latter.

Argentina asked that the Monroe Doctrine be applied in the dispute between Argentina and Great Britain over the Falkland Islands. Bayard in the above letter to Quesada stated that since the occupation of the Falkland Islands by Great

<sup>12</sup> *Writings of Daniel Webster*, National Edition, XIV. p. 371.

Britain in 1833 took place under a claim which had been previously asserted and maintained, the Monroe Doctrine had no application to the case, it was not retroactive. He further stated that even if the British occupation had been a violation of the Doctrine the United States was in no way obligated by its failure to enforce it.<sup>13</sup>

An incident very similar to the one which is the subject of this article arose between the United States and Great Britain in 1854. Two American fishing vessels, the *Harriet* and the *Washington*, were arrested by the British authorities in the Falkland Islands for killing the wild hogs which roamed the Islands. The American consul stationed there at that time immediately notified the commander of the Brazilian squadron of the United States navy of the incident. Another American naval officer, Captain Lynch, now had the opportunity to demonstrate a lack of regard for the feelings of others. He was very discourteous to the governor of the islands. The British foreign office expressed regret for the arrests and caused the American vessels to be freed, but stated at the same time that they would expect an apology from the United States for the conduct of Captain Lynch. Lord Clarendon stated Great Britain's position to be as follows:

Her Majesty's Government . . . will continue to exercise in and around the Islands of the Falkland group the rights of territorial sovereign and will prevent, if they think fit, foreigners from fishing for whale and seal within three marine miles of the coast, or from landing on any part of the shores for the purpose of fishing or killing seals, nor will they allow the wild cattle to be destroyed.<sup>14</sup>

In 1881, because of the near exhaustion of the seal fisheries of the islands, the governor of the Falklands issued a decree establishing a closed season for the killing or capture of seals.

The incidents at the Falkland Islands in 1831 caused a break in the diplomatic relations between the United States

<sup>13</sup> Moore, *Digest of International Law*, I. p. 889.

<sup>14</sup> Moore, *Digest*, I. p. 888. Also, *Sen. Exec. Doc.*, 42nd cong., Serial No. 1478, I. No. 19.

and Argentina. Chargé Baylies received his passports September 3, 1832, and the United States did not have a diplomatic representative at Buenos Aires again until in the next decade. Argentina did not have a minister in Washington until in 1840 when Alvear presented his demand for reparation.

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## TEODORO DE CROIX

Teodoro de Croix, one of the greatest and noblest military viceroys, wisely governed Peru in the latter eighteenth century, when Spanish colonial administration was rapidly declining. The fact that this highest representative of the king in America was of Flemish descent shows that foreign influence, under the Bourbon régime, had penetrated even into the distant colonies. But the man of foreign descent was filled with the fire of a splendid enthusiasm which has seldom been equalled. In Spain, El Cavallero de Croix, as he styled himself, served faithfully as commander of the Teutonic Order, captain of the Walloon Guards, and as lieutenant general of the armies of the king.

For a number of years he performed successful military service under his uncle, the Marqués de Croix, who was viceroy of Mexico. The elder Croix appointed him governor of Acapulco, in order that he might help to check illicit commerce, since the homing Manila galleons which landed at that western port brought large quantities of contraband goods. The younger Croix was energetic, eager, and an assiduous worker who, taking his tasks seriously, decided to board the galleons when they arrived and see for himself what they contained. He had all the smuggled merchandise confiscated and the king was well pleased that 1,800,000 crowns from the sale of the articles entered the royal treasury. Teodoro also aided his uncle to expel the Jesuits from Mexico. He was trusted so thoroughly that the secret plans of the viceroy and of Visitor Gálvez were revealed to him. The younger Croix's most valuable military experience was obtained in the frontier provinces of New Spain, where he became the first commandant-general of the newly established *Provincias Internas* in 1777.<sup>1</sup>

<sup>1</sup> Charles François Croix, *Correspondance du marquis de Croix, capitaine général des armés de S. M. C., viceroy du Mexique* (Nantes, 1891), pp. 202, 205-209, 249.

There Croix learned how to deal with the painted warriors and to take defensive measures against foreign aggressors; there he became familiar with the conditions of America which were so different from those of Spain.

The prosperity of the frontier provinces depended on terminating the incessant Indian hostilities that they suffered; thus the dauntless official undertook the task with his characteristic vigor and intelligence which were somewhat new to frontier functionaries. His plans had been made before he left Mexico and his good friend Bernardo de Gálvez, the brilliant young soldier who was in charge of the province of Louisiana, was to coöperate with him. The plan was to unite the Indian nations of the north and three or four hundred hunters from Louisiana, commanded by Gálvez, with the military force of the *Provincias Internas*, led by the commandant, in a joint campaign against the troublesome eastern Apaches. Croix likewise asked for two thousand more troops for the frontier provinces. He held a series of councils of war, over which he presided, to obtain the approval of the frontier officials for his projects, to hear their suggestions, and to discuss measures for putting them into effect. The youthful military leader decided to make a thorough study of the Indian question, and in the councils held at Monclova in 1777, at San Antonio de Béxar in 1778, and at Chihuahua in 1778, he considered sixteen points relative to the Apaches and the Indian nations of the north.<sup>2</sup> How long the fierce Apaches harried the Spanish frontier, their number, methods of making war, their habitat, what enemies they had among the other Indian nations the feasibility of making alliances with the various native tribes, and their manner of living—this was the information sought.<sup>3</sup>

<sup>2</sup> The Indians of the frontier provinces have been ably treated in Herbert Eugene Bolton, *Athanase de Mézières and the Louisiana-Texas Frontier 1768-1780* (Cleveland, 1914), I. 111 *et seq.*

<sup>3</sup> Teodoro de Croix concerning the councils of war, December 9, 1777, *ibid.*, II. No. 165, pp. 147-150.

The junta held at Monclova recommended that an offensive union should be made with the nations of the north, and that a war of extermination should be carried on against the wily Apaches of the east.<sup>4</sup> Although the king did not permit Gálvez to come from Louisiana with a corps of hunters as requested, this did not discourage Croix. Soon the commandant general planned to advance the frontiers and establish fortified posts along the Colorado River to the country of the Taovayases, as a way to keep the interior of the provinces safe.<sup>5</sup>

Croix advised the Spaniards to have friendly dealings whenever possible with the Indians of the north because he thought that this would be the easiest and best means to preserve permanent peace. When the governor of Texas told him that the inhabitants of the province secretly traded with the Indians of the north, he became greatly alarmed, since he believed that trade in firearms was bad for the natives. As the citizens of Louisiana likewise sold weapons to the stealthy savages, they tried to utilize them skilfully, and the Lipanes even learned the secret of making gunpowder. What could Croix do to prevent the evil because of his efforts to subdue the wild Apaches? Any measure taken against the traders of Louisiana might cause the Indians of the north to make war against the Spaniards; he also knew that it would be necessary to prevent the English of the nearby colonies from exchanging firearms with the Indians, which, too, might arouse disastrous hostilities.<sup>6</sup>

The soldier-knight accomplished much in the frontier provinces, although he sometimes felt that his attempts were futile and that he worked in barren soil which produced little fruit.

<sup>4</sup> *Ibid.*, I, 111-112.

<sup>5</sup> Croix to Bernardo de Gálvez, September 10, 1778. Bolton, II. No. 185, p. 218; September 23, 1778, II. No. 187, pp. 221-222.

<sup>6</sup> Croix to Baron de Ripperda, July 9, 1777, *ibid.*, II. No. 159, pp. 133-134; Croix to Bernardo de Gálvez, September 11, 1778, II. No. 168, p. 137; September 23, 1778, II. No. 187, pp. 222-223.

He declared that everybody thought more of personal interest than of the king or virtue. His natural enthusiasm, ambition, and youth caused Croix to hope that the sovereign might recall him and give him another position; yet as this was the first important commission that Croix had held, he could hardly expect to be promoted soon.<sup>7</sup>

When the young frontier commandant returned to Spain the king rewarded him for his faithful services in Mexico by appointing him to the most coveted post in America, the vice-royalty of Peru. Croix made his entry into Lima on April 6, 1784, with all the accustomed pomp and ceremony which attended the reception of a new viceroy, the usual civil officials, ecclesiastical dignitaries, and the populace coming out to welcome him. Like all his predecessors, after paying his respects in the cathedral, he then took the oath of office in the audiencia. Sumptuous banquets were followed by costly entertainments.

Although a military man, Croix also had innate capacity as an administrator. At the behest of the energetic Charles III. who desired to centralize the colonial government after the French fashion in order to produce lasting reforms, the new viceroy immediately undertook to establish the intendant system in Peru. The visitor general submitted to Croix a list of the intendancies that were formed, with the dioceses to be included in them, their capitals, and the number of officials serving in them. The viceroy then ordered that the proper commissions should be granted to the intendants who had been appointed, confirming them as the representative of the supreme authority and person of the king. He also published a proclamation in Lima in which he enjoined obedience to the new system of government, sending copies of the ordinance of intendants to all the tribunals of the capital and to the provinces. Finally he gave account of the measures taken to the king, and after obtaining the royal approval on January 24, 1785, the new régime was definitely established in the vice-

<sup>7</sup> Croix to Bernardo de Gálvez, January 26, 1780. Bolton, II. No. 251, pp. 332-334.

royalty of Peru.<sup>8</sup> Eight intendancies were created in Peru, which were divided into fifty-seven districts or *partidos*; over these subdelegates were placed.<sup>9</sup>

The Peruvian executive next turned his attention to the application of the intendant system to Chile; but the introduction of intendancies into the southern province was delayed until the relation which it was to have with Peru could be determined. It was finally decided that Chile was to remain dependent on the viceroyalty of Peru in military and financial affairs. The number of intendancies to be established in Chile, the *partidos* to be included in each one, the officials, sub-treasuries, the *junta superior*, and many other matters which the ordinance mentioned—these were the problems about which Croix consulted the president and regent of the audiencia of that province in 1785.<sup>10</sup> It was thought that the two intendancies of Santiago and Concepción would be sufficient, and that they should correspond to the two bishoprics of those names. Croix formed the two intendancies as soon as possible. The president of the audiencia of Chile, Ambrosio Benavides, was chosen intendant of army for Santiago, and the governor of the frontier, Brigadier Ambrosio O'Higgins, intendant of province for Concepción. The old governors and *corregidores*, who became subdelegates in the new divisions, did not have the right to trade as before. Croix believed that it would be better for Chile to be less dependent upon Peru, since by this plan the delays could be avoided which had been so injurious to the former province because of the great distance from the capital of the viceroyalty and the poor means of communication. He sent copies of the ordinance of intendants to the president and regent of the audiencia of Chile so that they could form the *junta superior de hacienda* or board of finance,

<sup>8</sup> *Memorias de los vireyes que han gobernado el Peru* (Lima, 1859), V. 70-71; Vicente G. Quesada, *Historia colonial Argentina* (Buenos Aires, 1915), p. 257.

<sup>9</sup> Bernard Moses, *Spain's declining Power in South America, 1780-1806* (Berkeley, 1919), p. 246.

<sup>10</sup> *Memorias de los vireyes que han gobernado el Peru*, V. 72.

and the president might assume his duties as intendant of army. The king sanctioned the viceroy's measures relative to the new intendancies on February 6, 1787.<sup>11</sup>

In other administrative activities and reforms Croix played a leading part. He established a royal audiencia and a tribunal of accounts at Cuzco; hence in this way Cuzco, which had been the capital of the Inca empire, was fittingly honored as a reward for the untold insults that it suffered in the days of the conquerors.<sup>12</sup> The viceroy caused the valleys of Acobamba and Vitoc to be repopulated. The Vitoc region in the province of Tarma had long been exposed to Indian hostilities; therefore a settlement consisting of seventy-five people was begun in April, 1788. A fortress, a church, and a house for missionaries were constructed under the supervision of the intendant of this province.<sup>13</sup>

The beneficial measure of free trade had not yet been put into effect in Peru when the viceroy arrived; accordingly he allowed the first vessel of the Philippine Company to come to Callao to trade. The results of free trade proved to be very profitable to the country, for during the five years of Croix's administration the exports amounted to 36,000,000 crowns and the imports to 42,000,000. The revenues of the state were 4,500,000 crowns and the expenditures did not exceed this amount; thus for the first time in a number of years the budget balanced.<sup>14</sup> The viceroy was always a great champion of free trade. For example, when the inhabitants of Truxillo protested about negroes and sugar being imported freely into Peru by way of Buenos Aires and tried to get the king to prohibit this exchange so that the introduction would follow the old Panama route, Croix intervened immediately. He recommended that the king should command the Royal Company of the Philippines, which had charge of the slave trade, to convey

<sup>11</sup> Quesada, *Historia colonial Argentina*, pp. 285-296.

<sup>12</sup> *Memorias de los vireyes que han gobernado el Peru*, V. 73-74.

<sup>13</sup> *Ibid.*, V. 165-171.

<sup>14</sup> Croix, *Correspondance*, pp. 249-250.

one-third of the negroes by way of Panama, in order that the farmers of Truxillo might obtain the number needed for their estates.<sup>15</sup>

Great administrators must also be great builders; consequently, public improvements occupied the attention of the king's highest representative. He had the bridge of Jequetepeque constructed on the highway over which passed the traffic from Lima and the adjacent towns; he enlarged the wharf at Callao with the financial aid of the *consulado*,<sup>16</sup> and he had the powder magazine of Cuzco located a league from the city on account of the danger from fires.<sup>17</sup> It seems that in Lima fireworks used in public fiestas had caused conflagrations; therefore Croix prohibited the manufacture of the explosives except those needed to show respect to members of the royal family who died.<sup>18</sup> Good roads even in the distant provinces of Valdivia and Chiloé were a matter of interest to him; for without satisfactory communication a country remains backward.<sup>19</sup> Believing that lack of cemeteries outside of the cities in Spanish America was one of the chief causes of disease, Croix assigned four places far enough away from Lima for cemeteries, but scarcity of funds prevented the work from being realized.<sup>20</sup>

The watchful viceroy kept order in the capital by having it patrolled at night. He found it necessary to commission Juan Lostaunu, the captain of the infantry, to safeguard Lima, its suburbs, and the surrounding country, and to capture not only malefactors but also runaway slaves who sought refuge in the city and in the nearest mountains. Those who captured slaves were to be granted a reward of ten pesos.<sup>21</sup> Sometimes when the lower classes of people in the capital

<sup>15</sup> *Memorias de los vireyes que han gobernado el Peru*, V. 134-136.

<sup>16</sup> *Ibid.*, V. 137, 151-160.

<sup>17</sup> *Ibid.*, V. 177-192.

<sup>18</sup> *Memorias de los vireyes que han gobernado el Peru*, V. 146-151.

<sup>19</sup> *Ibid.*, V. 163.

<sup>20</sup> José Toribio Polo, *Memorias de los vireyes del Peru* (Lima, 1896), pp. 34-35.

<sup>21</sup> *Memorias de los vireyes que han gobernado el Peru*, V. 145.

were very turbulent it was not an easy task to maintain order. Executives were required to see that irresponsible persons like mulattoes, zambos, and Indians did not carry weapons; mestizos might bear them only under a special permit. Arms might not be taken to the Indies without royal consent, under the penalty of losing them; therefore Croix decided to retain all prohibited weapons in the custom-house of Peru until the owners could send them back to Spain.<sup>22</sup>

The efficient administrator supervised minor improvements in the city of Lima, such as street paving, decorating, lighting, cleaning, and repairing of buildings. He was aided by a lieutenant of police who performed many of the functions of the *cabildo* or municipal council which had grown careless in its work. The first lieutenancy of police, with a salary of two thousand pesos, was conferred upon José María Egaña who had been *alcalde* of the ward. Croix considered the office very necessary and thought that Egaña was reliable and discharged his duties faithfully. Although a number of improvements were made and many sanitary measures were taken by the new official, the *cabildo* could not see the need of him, no doubt, because he was not elected by that body.<sup>23</sup>

Mining was still one of the most important and profitable industries in Peru and the chief source of revenue for the crown; therefore, in 1787, the tribunal of mining was established in order to develop further the resources of the country. The viceroy, being well pleased with the way the directors performed their functions, advised the creation of a college of mining, similar to the institution in Mexico, where the latest methods of the industry could be studied. Like his predecessors, Croix took great pride in the chief occupation of the country, for when mining flourished the viceroyalty was prosperous. He was much interested in the royal mine of Guan-

<sup>22</sup> *Recopilación de leyes de los reinos de las Indias* (Madrid, 1791), ed. 4, leyes 12, 14, 8, tit. 5, lib. 3; *Memorias de los vireyes que han gobernado el Perú*, V. 78-80.

<sup>23</sup> *Ibid.*, V. 130-134.

cavelica from which quicksilver was obtained, and he tried to prevent all fraud in the distribution of the metal, which was used for extracting gold and silver. Large quantities of mercury were needed in mining and if, for any reason, the supply ran short the valuable industry suffered.<sup>24</sup>

The executive also took defensive measures for the vice-royalty during foreign wars. He sent instructions for defense to the intendants of each province in Peru and inserted a copy of the royal order which commanded him to protect the country from attacks by the English, who were at war with Spain.<sup>25</sup> He summoned councils of war to discuss financial matters that pertained to the army, military discipline, the reform of battalions, and the regulation of the price of transportation of soldiers from Peru to Spain. The visitor as well as the viceroy was present at those meetings.<sup>26</sup> The coasts of Peru and Chile were so long that it was impossible to fortify all the ports; therefore the method of defense adopted was for the people of the small towns to withdraw inland with all their movable possessions whenever they saw an enemy appear. The port of Callao was always fortified. A commissioner of war resided there and Croix, who thought that he was very necessary for the defense of the city, advised the king to continue him in the office.<sup>27</sup>

The viceroy as the supreme military chieftain in the vice-royalty had to provide hospitals and barracks for the troops. Croix caused ten barracks to be built in Lima at a cost of 40,000 pesos. He was forced to take this measure because sickness had occurred among the soldiers due to exposure in their lodgings at the hospital of the Bethlehemites and in the college of San Felipe.<sup>28</sup> Executives of Peru were likewise held responsible for conveying subsidies to the far away presidios

<sup>24</sup> *Memorias de los vireyes que han gobernado el Peru*, V. 362-365, 369.

<sup>25</sup> *Ibid.*, V. 240.

<sup>26</sup> *Ibid.*, V. 222-225.

<sup>27</sup> *Ibid.*, V. 209-210.

<sup>28</sup> *Ibid.*, V. 228-229.

of Panama, Cartagena, Santa Marta, Chile, Valdivia, and Buenos Aires. In July of 1788, Croix sent 300,000 pesos to Panama and four months later he added 385,674 pesos to this sum.<sup>29</sup> Viceroys of Peru exercised much authority over the armadas of the South Sea on account of the great distance from the mother country. They supervised the construction of ships for those waters and were required to inspect the officials of the armada every year. According to the laws of the Indies there was to be a pilot on each ship of the fleet and two on the flagship and *almirante*.<sup>30</sup> In 1786 Croix provided that a pilot who had passed an examination should accompany every boat.<sup>31</sup>

The all-consuming desire of Croix was to give Peru a vigorous administration and to correct abuses; therefore he believed in making subordinate officials perform their duties properly. The fact that he even removed an intendant from office showed that the viceroy still had a great deal of authority in spite of the new intendant system which somewhat decreased his powers. Francisco Hurtado engaged in commerce with the island of Chiloé and persisted in his misdeeds, although Croix had warned him of the consequences. The disobedient intendant became angered and denounced both the viceroy and his assessor. Croix then gave account to the king, which report had no effect upon the reprobate intendant, who insulted the viceroy and said that the island of Chiloé was not subject to the jurisdiction of Chile or Peru. The viceroy finally removed the obstinate official, brought him to Lima, and from there sent him to Spain.<sup>32</sup> He also deposed González, the military governor of the island of Juan Fernández, because, in 1788, he permitted a vessel of the United States from Boston with Grey and Kendrick on board to land at the island, to make repairs, and to take away supplies. Croix dismissed

<sup>29</sup> *Ibid.*, V. 313-314.

<sup>30</sup> *Recopilación, leyes 1, 18, tit. 44, lib. 8; ley 35, tit. 23, lib. 9.*

<sup>31</sup> *Memorias de los vireyes que han gobernado el Peru*, V. 242-245.

<sup>32</sup> *Ibid.*, V. 125-129.

the governor from office because he furnished assistance to the distressed boat. He ordered the intendants and subdelegates of the provinces to be on the lookout for foreign ships and to place sentinels on the coasts.<sup>33</sup>

In 1785, the viceroy dealt rather severely with an impostor by the name of Manuel Antonio Figueroa, a native of Galicia, who had come to Peru, and assumed many fictitious titles, like Cardinal Patriarch of the Indies and Governor of the Council of Castile. Croix commanded the *auditor de guerra* to seize the man and examine his papers, which were found to be forged; for punishment Figueroa was sentenced to ten years in the presidio of Africa.<sup>34</sup> Croix intervened in an election of the *consulado* or organization of merchants in Lima by summoning the quarrelsome men to meet in his office in order to discuss the matter, and it was settled peacefully. A short time after this event the tribunal of the *consulado* imprisoned a lieutenant in the public jail of Lima for a debt of twenty-five pesos. On the way to prison the chief sergeant ordered him to be taken to the barracks of his battalion for custody, but the *consulado* paid no attention to the request and the lieutenant was conducted to the town jail. The affair was appealed to the viceroy, who gave the tribunal a slight reproof, saying that it had a perfect right to arrest soldiers, but that it should respect military commands.<sup>35</sup>

The great administrator was equally interested in religious matters and even ecclesiastics did not escape his watchful eye. Croix expelled Friar José de Azero from Peru because he was implicated in the case of the impostor Figueroa.<sup>36</sup> He removed Gaspar de Ugarte from the province of Jauja, José de Hoya from Tarma, and Pedro Escobar from the district of Guarochiri since they had tyrannized over their Indian parish-

<sup>33</sup> *Ibid.*, V. 254-260.

<sup>34</sup> *Ibid.*, V. 111-122.

<sup>35</sup> *Ibid.*, V. 87-88, 342.

<sup>36</sup> *Ibid.*, V. 122.

ioners and did not properly instruct them in the faith.<sup>37</sup> He was very careful to see that royal measures for religious reforms were carried out, and that small convents, which had scarcely enough income to maintain eight members, were suppressed. He also tried to prevent other establishments from having an excessive number of inmates, and he enjoined that the constitutions of religious orders should be kept.<sup>38</sup> In 1786, there was a disturbance during the election of the abbess of Santa Clara at Truxillo, and a year later Croix was obliged to take a hand in it to restore peace.<sup>39</sup> Viceroys were to collect all papal bulls and briefs unsanctioned by the council of the Indies and send them back to Spain. Prelates in Rome sometimes addressed *patentes* or letters to ecclesiastics in America, in which they made certain requests or gave permission for measures to be taken concerning religious matters. When such a document, relative to the extension of terms of the religious, came to Peru, Croix declared it void.<sup>40</sup>

The fair-minded executive always protected members of the clergy to the best of his ability. In 1788, the bishop of Concepción on the way to Valdivia was robbed of his baggage. As soon as Croix was informed of the event by the commandant of the frontier, O'Higgins, action was taken to prevent a similar crime and to restore the lost articles to the prelate. Such stringent measures were employed against the stealthy Araucanian Indians that the road from Concepción to Valdivia remained quiet for some time after this.<sup>41</sup> Croix coöperated with the inquisition to detect prohibited books. The writings of Montesquieu, Raynal, Machiavelli, Legros, Linquet, Belisario de Marmontelo, and the French Encyclopedia were all under the ban; therefore the viceroy organized a committee to examine public libraries and to keep such

<sup>37</sup> *Ibid.*, V. 55.

<sup>38</sup> *Ibid.*, V. 8-9, 16.

<sup>39</sup> *Ibid.*, V. 46-49.

<sup>40</sup> *Ibid.*, V. 16.

<sup>41</sup> *Ibid.*, V. 84-85.

works out of Peru.<sup>42</sup> He took great interest in the college of San Carlos in Lima, provided that the proper kind of a man was chosen rector, and required the institution to give account of its income and the salaries paid to its professors.<sup>43</sup>

Croix seems to have exercised a great deal of power, although he complained about the decrease of his authority due to the intendant system. He suspended a royal order for the remeasurement of the land in Peru; since much injustice had been caused by the act, the public opposed it, and the rights of litigants were not considered. Accordingly the viceroy decided to take action against such an unpopular measure. The king was pleased and requested an investigation to be made relative to the harm which the Indians had suffered.<sup>44</sup> The viceroy thought it well to suspend the promulgation of a royal order of 1781 and 1783, which compelled children to obtain the consent of their parents or tutors before getting married. He did this because the two Spanish regiments of Soria and Extremadura were in Peru and it seemed to him that it would be good for the country if the officers and soldiers, Spaniards as well as foreigners, should marry and live in the colony. Account was given to the king who annulled the objectionable article in the decree; but complaints soon arose that ecclesiastics married the soldiers without the permission of their chiefs. Again the government had to turn its attention to the matter and Croix commanded the archbishop to make the clergy comply with the royal measures.<sup>45</sup>

The intendant system, after it had been tried for several years, was vigorously denounced by the very man who had inaugurated it in Peru. Croix declared that the intendancies had caused many inconveniences and that there was an outcry

<sup>42</sup> *Ibid.*, V. 85-86.

<sup>43</sup> *Ibid.*, V. 23-25. For the many other duties of a viceroy consult Lillian Estelle Fisher, *Viceroyal Administration in the Spanish-American Colonies* (Berkeley, 1926).

<sup>44</sup> *Memorias de los vireyes que han gobernado el Peru*, V. 91-94.

<sup>45</sup> *Ibid.*, V. 43-45.

in the country for their suppression. He maintained that the power of the viceroy had been greatly diminished, and that there was less respect for the chief executive among the people, who recognized in their respective intendant a judge invested with all authority in the four departments of government. They yielded the same obedience to the viceroy only in the intendancy where he resided. Croix asserted that the populace believed that the powers of viceroys were restricted in order to take away from them a certain imagined despotism; notwithstanding that they had given proofs of fidelity and obedience to the king for more than two and one-half centuries. Although the intendants were subject to the viceroy and to the *junta superior*, the people thought that they were not dependent upon the executive in anything and regarded him with indifference. A few examples of insubordination occurred in Guancavelica and Chile where the troops had to be called out to quell them.

Croix alleged that ecclesiastics did not get along well with the intendants. He had to settle dissensions between the intendants and the nuns of Cuzco and Truxillo, the bishops of Arequipa and Guamanga, and in the college of Ocopa over the election of officials. The prelates noticed a great contrast between viceroys and intendants. The former by their age, rank, titles, services and nationality were fit to exercise the honorable functions of vice-patrons, but they were deprived of them. They considered the latter mere youths without rank, experience, or self-control; and they found still more objections to the lieutenant-assessors of the intendants whose only merit was that they were lawyers of the common people of the audiencia.

The bishops became angry at the intendants when they observed that the lesser clergy tried to win their good-will for purposes of self-interest. Intendants encouraged them in disobedience to their prelates; therefore bishops feared to have those officials, in their capacity of vice-patron, provide for

vacant parishes. Thus the parishes were allowed to remain unoccupied or were served by *ad interim* appointees, which was not good for the cause of religion. Croix used all means to calm the scandalous disagreements between ecclesiastics and intendants. He thought that the latter should not have anything to do with the vice-patronage, since many of them were not of sufficient uprightness, learning, disinterestedness, and public spirit.

The Peruvian viceroy asserted that the intendants had not given the least encouragement to agriculture, commerce, industry, and mining, although this was their special work. In his opinion the cabildos were more capable to perform the functions under the department of general administration than were the intendants. He showed that intendants had not improved the administration of justice in Peru. The chief defects arose from the fact that these officials were not lawyers and that they resided only in the capital cities of the provinces or in larger towns where Spaniards dwelt. However, Croix contradicted himself when he stated that intendants and their assessors were more just than the corregidores and the lawyers from whom they received assistance. He complained that intendants allowed more appeals from judges of first instance than the laws prescribed; and when the audiencia reproached them for this they got around the laws by calling appeals complaints which they decided as they saw fit.

The executive even maintained that the department of finance was not administered any better under the intendants than before. He accused them and their assessors of varying the rules of revenue collection because of their lack of financial experience. They excused some individuals from taxes and punished others, and thereby caused discontent among the people and opposition to the payment of dues. Croix admitted that the security of the royal treasury had been improved; but this, he claimed was not on account of anything that the

intendants or their subdelegates had done, rather it was because of the double entry and better methods of keeping accounts. The viceroy did not consider intendants necessary for the military department, since their work was principally to provide the pay and allowances for the troops, which treasury officials, as commissaries of war, made during the monthly review. He said that the intendants were slow to put measures into effect, and sometimes three or four orders, besides summons and warrants, were necessary to make them perform their duties.<sup>46</sup>

One of the distinguishing marks of a great man is his humanity. Croix was always accessible, and was noted for his remarkable virtue and inexhaustible charity. He granted permission to Doña Josefa Cordeo, a generous inhabitant of the city of Ica, to establish at her own expense a hospital and a home for neglected children, and later the royal approval for the work was obtained.<sup>47</sup> With the assistance of the archbishop, Chavez de Rosa, Croix founded at Arequipa a house for orphans which provided the country with many famous men. He himself unsparingly assisted hospitals, beggars, prisoners, mendicant friars, and the sick, until he was reputed to be the poorest man in Lima. When he left Peru on April 7, 1790, the admiral of the fleet was obliged to advance him money for his passage. At the port when a poor woman entreated the viceroy for alms for the maintenance of her children, he put his hands into his pockets and drew them out empty exclaiming:

It shall not be that the last poor woman who asks for aid before my departure shall go away with empty hands.

He took his sword, broke off the silver point, and gave it to the poor woman. The great man died in Madrid in 1791, a year

<sup>46</sup> Croix to the king, Lima, May 16, 1789, AI, 146-6-14.

<sup>47</sup> *Memorias de los vireyes que han gobernado el Peru*, V. 31-32.

after his services in America ended, but he had already reached his zenith.<sup>48</sup>

What does Spanish America owe to this notable viceroy and statesman? Teodoro de Croix, a man of absolute singleness of purpose, was one of the outstanding Spanish colonial officials of the eighteenth century. His duty and loyalty to the crown always came first, although it was a time when other royal employees were apt to think more of self-interest. He was equally prominent as an executive, administrator, and military leader. He inaugurated into Peru the régime which revived the decadent colonial administration and enabled Spain to hold its vast American possessions for another span of half a century. The services rendered by Croix in a period of decline can hardly be estimated, and his name deserves to go down to posterity.

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<sup>48</sup> Croix, *Correspondance*, p. 250.

## BOOK REVIEWS

*A History of Latin America.* By WILLIAM WARREN SWEET. (New York: The Abingdon Press ['1929]. Pp. 404.)

The third edition of this book has been expanded to 404 pages, whereas the first issue had 290 pages. There are just half as many maps as in the first compilation; the one new map is of the railroads of all Hispanic America instead of South America only. The frontispiece is the only illustration in the work.

The first fourteen chapters are the same as in the older editions, but many of the errors have been corrected and occasionally a paragraph is enlarged or a new one treating a different subject is inserted. The wording of the greater part of these chapters is identical to that of the other editions, except an attempt is made to accent Spanish words, wrong dates are corrected, and incorrect statements are either omitted or changed.

The latter part of the work is greatly expanded. A new chapter is devoted to "Peru, Bolivia, and Paraguay", while in the former editions these topics were combined with the preceding chapter. There are also new chapters on the "Brazilian Empire and Republic", "Chile", "Central America and the Island Republics". The portion which deals with the governments of Hispanic America has been extended to two chapters—one on the "Federal Republics" and the other on the "Centralized Republics". Some additions have been made in the chapter entitled "Races and Society in Present Day Latin America", the most important being the part which discusses the modern social movements. The chapter on "Economic Conditions" is more up to date and recent statistics have been cited. The last chapter treats "International Relations"; it has been expanded and brought up to the present time. A part, based on Percy A. Martin's *Latin America and the War*, is added. More reading references are given at the end of each chapter and an effort is made to include recent works. The index has been revised to cover three extra pages.

The reviewer still finds some inconsistencies and errors in proof reading. Spanish words are italicized throughout the new edition, but occasionally the author forgets about them as in chapter four.

The following slips in proof reading have been noted: 1215 for 1512 (p. 27); "Pedrarias" should not be accented (p. 63); a quotation is cited from Helps without giving the page in the footnote (p. 71); accent on Díaz omitted (pp. 89, 349, 362, 363); "Recopilación" should be accented (p. 109); "alcaides mayores" are not to be separated by a comma as in the side heading (p. III); accent omitted on "Cádiz" (p. 117); the statement is made that there were 62 viceroys of Mexico and in the same paragraph 64 are given (p. 145); "partidos" not "partidas" (p. 151); accent omitted on Querétaro (p. 187); "Augustín" has an accent (pp. 190, 191); "Tucuman" has no accent (pp. 211, 226), "Mehia" should be "Mejía" (p. 264); there should be a comma after "wrong" instead of a period (p. 290); accent omitted on "Bogotá" (pp. 318, 349); "colegios" not accented (p. 323); "gauchos" (p. 346) should not be capitalized but italicized to be consistent with (p. 221); and "Cortés" has an accent (p. 355). Throughout the words "Bahía" and "San Martín" are not accented, although most authorities accent these words.

Exceptions are taken to several statements. The author declares that the early viceroys held office for three years, but the term might be lengthened or shortened (p. 110). The fact is that the first two viceroys of Mexico held office practically for life; it was not until the seventeenth century that the three year term was adopted. Only the seventeenth century viceroys received the salary mentioned in this book. During the sixteenth century their remuneration was much lower and in the eighteenth century much higher than the figures given. The tribunal of accounts of Mexico was founded in 1605 (p. 113), but the one in Lima was established in 1607. It is said that Spain could enforce its restrictive trade laws, while England could not do this (p. 115). Why then did Spain not prevent smuggling which deprived the treasury of huge sums of money annually? The first census of New Spain was not taken during the administration of the second viceroy Revillagigedo (p. 147). There were several attempts to take the census in the sixteenth century and in the seventeenth it was taken seven times.<sup>1</sup>

The third edition of Professor Sweet's work is a decided improvement over the earlier compilations; it has been rendered more useful because of the additional material, especially in the latter part of the

<sup>1</sup> See Vicente Riva Palacio, *Méjico á través de los siglos* (Barcelona, 1888-89), II. f. 682.

book. On account of its great mass of fundamental information, the volume should be very helpful to young students who need to acquire a background for Spanish American history before undertaking intensive study in this field of history.

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*Rivalry of the United States and Great Britain over Latin America (1808-1830).* By J. FRED RIPPY, Professor of History in Duke University. (Baltimore: The Johns Hopkins Press, 1929. Pp. XI, 322. \$2.75.)

In this contribution to the Albert Shaw Lectures on Diplomatic History, Professor Rippy continues his scholarly studies in matters relating to Hispanic America. His narrative is based on extended researches in the diplomatic manuscript materials in the state department at Washington and in the Public Record Office, London, as well as on various groups of published diplomatic correspondence. The author has a gift in terse, analytical statement as well as in happy generalization though the latter (so it seems to the reviewer) occasionally draws him into statements for which insufficient evidence is offered. He does not *prove* (for example) that a principal basis for early American favor toward revolutions in Spanish America was the desire to expand broadly our territory (p. 2). Indeed (p. 6) Dr. Rippy states that soon our policy was "confined . . . to the pursuit of the Floridas"—a pursuit which, until ended, has usually been held responsible for a very cautious support by the United States to those revolutions.

But this is but a minor point in Dr. Rippy's thesis and story. That thesis is the "rivalry" of Great Britain and the United States in extension of territory, commerce, influence, power, and especially in opposing views as to sea-power and rules of international law. No doubt this last is today the great, vital, question at issue between the two nations though the emphasis placed upon it in the Preface by a quotation from a somewhat lurid journalist seems rather a bid for popular attention to the book than a calm statement in harmony with the scholarly content. And the story, well told, and highly interesting to the historical student for its wealth of quotation from diplomatic archives, will hardly hold the attention of the "general reader".

The Preface indicates that Great Britain will be the "Villain", the United States the "Hero". The story makes both nations "villains" if to be striving for increase of power, prosperity, and influence constitutes "villainy"—which it does not, for that is the business of statesmen.

And the story really adds little to our previous knowledge of authoritative policy. It really restates and amplifies the old and long time accepted thesis of Temperley of the potential "villainy" of Canning as regards the United States in the period investigated by Dr. Rippy. There is a wealth of citation from the minor British and American diplomatic and commercial agents exhibiting their suspicions, maneuvers in rivalry, prophecies of evil, and advocacies of drastic action which, if adopted and acted on in *authoritative policy* would have produced a real clash. To the reviewer the chief interest in the book is in the evidence of how little the *little* men in diplomatic posts influenced the *big* men in office in determining lines of policy. The agent on the spot sees the rivalry in alarming proportions—sees only one item in a hundred that may determine the policy of a foreign minister. Professor Rippy's researches have uncovered a thousand jealousies and animosities of the little men; the effect of their reports on home governments he is able to present less positively. It seems inevitable in a close study such as this that one sees only a minute side of a problem—at least most of us who have tried it find it so. But why should not a study in diplomatic history seek to discover also the *ties* between nations, the influences, whether of home interests or ideals, that mitigate the jealousies and rivalries—the many less evident factors that blend in determining a "policy"?

Yet this suggestion is not, perhaps, a justifiable criticism of Professor Rippy's book. He has made exhaustive researches and presented their results in unusually readable form. He is entertaining, a difficult achievement in a work of this nature. And he sees himself the limitations of his presentation when he writes of the "little agents": "The plunging of the contestants at spectres, their charging at the shadows of their own embittered imaginations, furnish amusement at the expense of both".

E. D. ADAMS.

*Contra la anexión. . . . Recopilación de sus Papeles, con Prólogo y Ultílogo de Fernando Ortiz.* By JOSÉ ANTONIO SACO. 2 vols. Habana : [vols. V-VI in *Colección de libros cubanos*], I., pp. XCVI, 239 ; II., pp. 244, CXLVI.)

These two volumes are undoubtedly the most important work thus far published in the *Colección de libros cubanos*.<sup>1</sup> Unlike the others in this series, this does not represent any one work of the author, but is, rather, a collection of essays around a single idea, even including the answers of some of Saco's opponents, as well as the writings of the great Cuban literary genius himself. It is therefore a study of first-rate value, on a theme, too, that has always been interesting and still retains more than a shadow of importance. The word "annexation" in Cuba is understood with reference to annexation to the United States, despite an early but brief possibility that Cuba might have been joined to Mexico or Colombia.

José Antonio Saco was probably the greatest intellectual figure that Cuba has yet produced. Known among scholars in this country for his writings on the history of slavery, he is considered in Cuba, and would have considered himself, primarily in the category of a patriot. Indeed, his profound studies of slavery rested on the basis of his deep disapproval of that institution as affecting his beloved Cuba. Born at Bayamo, Cuba, on May 7, 1797, Saco at length appeared in the field of political polemics as an opponent of Spanish colonial despotism in Cuba, as also of negro slavery there. It is not surprising that he soon found himself an exile. He left Cuba in 1834, never to return, except for a few months in 1861. The rest of his life he spent mostly in France and Spain, dying at Barcelona, September 26, 1879. Yet during all this absence of nearly half a century, it is apparent that Cuba was never out of Saco's mind. His native island appears to have been the principal theme of his work, his letters, and, one might readily believe, of his conversations.

<sup>1</sup> The first three volumes, the *Historia de la isla de Cuba, por Pedro José Guiteras*, were described in a preceding number of this REVIEW. Ramón de Palma, *Cuentos cubanos*, has not yet been received by the reviewer. Volumes VII-IX, Samuel Hazard, *Cuba a pluma y lápiz*, will be reviewed in a later issue. Other works in preparation include the following: José de la Luz Caballero, *Ideas pedagógicas*; José Martí, *Poesías*; José Martí, *Epistolario*; Luis Victoriano Betancourt, *Artículos de costumbres*; Alexander Humboldt, *Ensayo político sobre la isla de Cuba*.

As the title of the work under review would indicate, Saco was an opponent of annexation. This cannot be said without qualification, however. Over the long period of his discussion of this subject, from 1837 to the year of his death in 1879, Saco modified his views in detail according to changing conditions, and at times even argued in favor of annexation as the lesser of two evils. Disregarding what may be termed as the temporary ideas of Saco, such as his objection to a union with the northern republic because of the then existence of slavery in the United States, the following were some of the pertinent views of Saco. He opposed the Spanish absolutist system, and argued earnestly for liberal reform. Although desirous of an eventually independent Cuba, he did not believe that the island was yet ready for such a state, and preferred to maintain the connection with Spain. He hoped Spain itself would grant better conditions, but at all events objected to revolution as bad in itself. Occasionally, when despairing of any yielding upon the part of Spain, he favored annexation to the United States as the only escape from despotism. Sometimes, too, his fear of race war in Cuba, with a possible descent to Haitian levels, inclined him toward the United States. Generally speaking, however, he opposed the idea of annexation. He had no faith in the altruism of the United States, believing that if it acquired Cuba it would be for its own benefit, and not for that of Cuba. Above all, he was alarmed by the specter of the probable loss of the soul of the island, the nationality of the Cuban people, in the absorbing process of the North Americanization of the island.

Recognition must once again be given to the able editorship of Fernando Ortiz in bringing out this valuable work.

C. E. CHAPMAN.

University of California.

*Obregón's History of 16th Century Explorations in Western America entitled Chronicle, Commentary, or Relation of the Ancient and Modern Discoveries in New Spain and New Mexico, Mexico, 1584.* Translated, edited, and annotated by GEORGE P. HAMMOND and AGAPITO REY. (Los Angeles: Wetzel Publishing Co., 1928. Pp. xxxiv, 351. Illus.)

Baltasar de Obregón, the author of this work, was born in Mexico City early in January 1544. At the age of nineteen, he enlisted as a

soldier and shortly became a follower of Francisco de Ibarra with whom he served until 1566 when he returned to Mexico. He had inherited his father's encomienda but it supported him indifferently and to win fame and wealth he wrote his *Chronicle* hoping thereby to interest his king, Philip II., to the extent that he might be granted a governorship in the new land. His story was completed in April, 1584, but it brought no honor or wealth. In fact it is not even known how the work was received in Spain.

The *Chronicle* is divided into two books of 38 chapters and 10 chapters, plus a summary, respectively. While it deals with the Mexican conquest from 1519 to 1584 it is considered of greatest value as the principal source for the activities of Ibarra from 1564 onward. For events prior to this date the author has relied upon second-hand information and records. But he has tried to be accurate, for after writing it once he verified and corrected it "by consulting people, readings, and accounts which were given to me and certified by many people" (p. xxxiv). Thus he has attempted a survey of Mexican history from the conquest, with emphasis upon the northern expansion of New Spain. He mentions the names and exploits of many *conquistadores* but with their story he minglest much interesting descriptive matter particularly concerning the natives, the activities of the friars, and the character of the country discovered.

The editors have used a photostat copy of the original manuscript which is found in the Archivo General de Indias. Their work appears to have been well done. Much relevant information has been included in footnotes and an excellent index has been compiled.

A. CURTIS WILGUS.

University of South Carolina.

*Indice bibliográfico de Costa Rica.* By LUIS DOBLES SEGREDA. Vols. I and II. (San José: Impr. Lehmann (Sauter & Co.), 1927-1928.)

Sr. Dobles Segreda has given the bibliographer a useful tool in the work here cited. His work is, in fact, an important contribution to Central-American bibliography, a field in which such reference works are scarce.

The complete book, of which the first two volumes have been published, will consist of nine volumes, arranged as follows: 1. Agricultura y Veterinaria. Ciencias físicas y naturales; 2 Filología y Gra-

mática. Geografía y Geología; 3. Educación, Filosofía, Religión y Crítica; 4. Higiene y Medicina. Matemáticas e Ingeniería; 5. Historia; 6. Milicia Política y Derecho; 7. Novela, Cuento y Artículo literario; 8. Psicología. Socialología y Demografía. Teatro. Poesía; 9. Índice de Autores.

The entries are unusually full, containing explanatory and critical and partial contents.

C. K. JONES.

Library of Congress.

*Catálogo de los Documentos relativos a las Islas Filipinas existentes en el Archivo de Indias de Sevilla.* Por D. PEDRO TORRES Y LANZAS. Precedido de una *Historia General de Filipinas.* Por el P. PABLO PASTELLS, S. J. Tomo IV. (Barcelona: Compañía General de Tabacos de Filipinas, 1928. Pp. cclxv, 189. 30 pesetas.)

The fourth volume of this highly interesting and valuable work which the Compañía General de Tabacos de Filipinas has undertaken it upon itself to perform continues the standard set by its predecessors. The documents listed by Torres y Lanzas in this installment cover the period 1595-1602, and are numbered 4492-6104. The history of Father Pastells, covering the ground of those documents, takes up events in the history of the Philippines from the reestablishment of the audiencia of Manila (or of the Philippines) to the arrival in Manila of Governor Pedro de Acuña. Stated otherwise, the list covers the period from shortly after the appointment of Francisco Tello, the tenth governor (reckoning provisional incumbents) of the islands to the arrival of his successor.

Both list and history, as has been pointed out before, should be used side by side with the Blair and Robertson documents, for the two series will be found to supplement each other. In this volume are a few echoes of the special mission of the Jesuit Alonso Sánchez to Rome and Spain; and throughout we can follow the growth of the missionary movement as well as that of the ecclesiastical government structure. The missionaries spread over the islands and even into other countries while the ecclesiastical government was established on a surer basis by the creation of the archbishopric of Manila and three suffragan bishoprics. Continued attempts to subdue Mindanao and adjoining Moro strongholds failed disastrously, and are symbolic of

Spanish contact in those regions until almost the middle of the nineteenth century. Highly important to the student of history is the contact with Japan, where the missionaries from Manila had at first been cordially welcomed in certain quarters and where many converts to Christianity had been made. The seizure of the Manila galleon which had been forced by contrary weather to take shelter in a Japanese port led to a Spanish embassy from Manila to demand reparation for the injury inflicted; and this together with rumors that the work of the missionaries was really part of a political penetration by the westerners led further and logically to the persecution and execution of the missionaries. The limits of the present volume do not, of course, include the events between 1602 and 1636 when Japan was virtually closed to foreigners for almost two and a half centuries.

Another event of importance was the arrival of the first archbishop, the Franciscan, Ignacio de Santibañez; but his death occurred within three months after he had taken possession of his see, and he was succeeded by the Dominican Miguel de Benavides who was long a force in the Philippines. The famous Jesuit, Pedro de Chirino, whose book was published in Rome in 1604, was sent to Rome to report to the head of his order the conditions then existing in the islands. Much of the volume is ecclesiastical in tone.

As hinted before, when noticing other volumes of this excellent series, the venerable Jesuit, Pablo Pastells, makes little effort toward historical criticism or explanation of his sources. In this volume, for instance, which deals so extensively with Japanese-Philippine relations, he apparently accepts the phraseology of the old documents in which Taicosama (the celebrated Hidéyoshi) is always called the emperor of Japan. Nowhere is there a note of the real status of this forceful Japanese peasant who directed Japanese affairs at this crucial period, but who, because he was not of noble birth, can not legally be termed even "shogun", although he acted as such. This reviewer believes that the historical narrative of this series would be improved if the author, who knows so much of Philippine history, would insert, either in a preface or in footnotes, certain explanations or warnings that will serve to save the time of the reader and frequently to remove misconceptions.

JAMES ALEXANDER ROBERTSON.

*Bullets and Bolos; Fifteen Years in the Philippine Islands.* By JOHN R. WHITE. (New York and London: The Century Co., [c1928]. Pp. xx, 348. Illus.; maps; index. \$3.50.)

From its title, one might imagine that this is a volume of the swashbuckling type where blood runs in torrents and where bloody deeds form the opening, body, and close of the work. There is blood, indeed, but there are also pleasanter subjects, and the volume has throughout a constructive value that will make its use by the student or writer of the American régime in the Philippines, imperative. It is the record, as related by himself, of a young man who enlisted in the Philippine constabulary in 1901, at the age of twenty-two, after already having served in the Greek Foreign Legion during the war with Turkey and for two years in the American army in the Philippines. In 1914, he was retired from the service for total disability, and was treated for lung trouble in the United States, recovering sufficiently to take part overseas in active service during the world war. During his years of service in the constabulary, he passed from third class inspector to colonel, serving in Manila as clerk (which he loathed), in active duty in the islands of Negros and Mindanao, and in the Sulu Archipelago, as governor of the Iwahig Penal colony in the island of Palawan, as commander of the southern district of the island of Luzon, as governor of the province of Agusan in Mindanao, and as head of the constabulary school in Baguio. He had more than his share of chasing and fighting *ladrones* and *pulujanes* who were a hangover in many parts of the islands from Spanish times and who increased during the first few years of the new régime. Many of these events were exciting enough, even to one who loved adventure as much as did Colonel White. In the execution of his duty he was continually taking hairbreadth chances and the wonder is that he was not killed early in the game. He was in the memorable Bud Tajo campaign in the island of Jolo in 1906—an episode that has been condemned in unmeasured terms by good people who sat safely by their firesides and knew nothing and cared less of real conditions in the Philippines—and there he received his only wound of any importance. His success as an administrator is shown by his management of the Iwahig Penal colony and other executive positions.

He tells his story simply, and with no air of bravado, and throughout his narrative has the air of truth. Indeed, his record is a part of

the archives of the constabulary and can easily be seen by those who might wish to check up on the book. He was indefatigable in his efforts to preserve order, ever being mindful that the Philippine constabulary is a police organization and not an army. He was a born leader and knew how to keep his men's respect and even affection. He identified himself completely with his job, was resourceful in his execution of it, and while alive to any dangers that threatened, was quite without any elements of panicky fear. Toward the natives of the island—of whatever part—he was most sympathetic, and he moved easily in any society. He notes (what has been so often expressed by others) that it was only after the advent of the American woman in the Philippines that the cordiality existing between the Filipinos and the Americans began to lessen. He performed a constructive piece of work under conditions that would have broken a man less resourceful in planning and executing.

The volume is prefaced with a foreword by General Harbord, who declares that "For fifteen years there was no department of the Insular Government more influential and efficient than the Constabulary"; and in speaking of Colonel White, he calls him "one of its most gallant and commanding officers". It is rather refreshing to have Colonel White says in his preface: "I have no theory about the Philippines or the Filipinos unless it should be that we keep our promises to them without more racial, legal, or economic obfuscation of the issues than may be necessary".

JAMES ALEXANDER ROBERTSON.

## NOTES AND COMMENT

### REPORT OF COMMITTEE ON LIBRARY COÖPERATION WITH HISPANIC PEOPLES

[Report made at the annual meeting of the American Library Association, May, 1929.]

The impulse given to library coöperation with Hispanic peoples through the exchange of visits between librarians of Mexico and the United States last spring, made possible through the generosity of the Carnegie Endowment for International Peace, has awakened interest in the subject as never before, and larger things are now demanded. Chief among the concrete results of Mexican-American coöperation have been: (1) the publication of a monthly list of Mexican books, with prices and names of publishers or booksellers; (2) the membership in the American Library Association of Mexican librarians; (3) the publication of a work on rules for classification cataloguing by the Ministry of Public Education, which was actually prepared by Messrs. Joaquín Díaz Mercado and Tobias Chaves, two members of the Mexican Delegation at the West Baden conference (4) the preparation of a list of American children's books for use in Mexican libraries; and (5) a critical bibliography entitled "Some Reference books about Mexico", by Señorita Juana Manrique de Lara. Another direct out-growth of the interchange of visits was the deposit of a set of Library of Congress printed cards in the National Library of Mexico by the Librarian of Congress, toward the negotiations of which the committee lent its offices, serving also in the matter of obtaining the assistance of the Carnegie Endowment for the cost of alphabetizing and packing the cards in boxes ready for use, as had also been done by the Endowment in the case of the Vatican Library. The sum of \$2,800.00 was donated for this purpose. The set of cards was received with great appreciation by the Mexican National Library in February, and immediately installed for public use.

A number of the projects set forth in the resolution adopted at the special meeting held at West Baden on May 26 for the Mexican visitors, are yet to be done, but a good beginning has been made, and we are hopeful that the complete program will be carried out in the near

future. It is recommended that the council consider sympathetically the prompt extension of our coöperation in Mexico, especially the following: "The interchange of library personnel"; "The inclusion of Mexican libraries in the Library of Congress lists of special collections"; "The exchange between Mexico, the United States, and Canada of exhibits illustrating the cultural development of the respective countries"; "Giving every possible encouragement to the translation into Spanish of library publications issued in the United States which are likely to be useful in Spanish speaking countries"; and "A request to the children's librarians section of the American Library Association to form a collection of children's books published in the United States and to send it, completely catalogued to the Lincoln Library in Mexico". (Sections numbered 1, 4, 7, 8, and 11, respectively of Resolution II.)

The major efforts of the committee during the past year have been devoted to the matter of an A. L. A. exhibit of books for the Ibero-American exposition in Seville, in pursuance of the resolution adopted last year at the round table. With the coöperation of Dr. E. C. Richardson, of the committee on international coöperation, we obtained the consent of the American commissioner general for the A. L. A. to use the shelves of the library room in the United States building, and with the very effective help of the A. L. A. headquarters staff, especially, Mrs. Emily V. D. Miller and the secretary, and Mr. Karl Brown of the New York Public Library, a collection of books numbering about 700 which were donated by a hundred publishers, were assembled and shipped to the exposition. A catalogue of Library of Congress cards with decimal classification numbers thereon was provided by the card division of the Library of Congress. (See *American Library Association Bulletin*, March, 1929, for details.) The collection consists of modern American literature—belletristic, biographical, political, etc. Books on Hispanic American history and reference books for archivists were not included in the collection since the Library of Congress is sending a semi-permanent loan of such material to the Instituto Cubano-Hispano, of Seville, for the use of researchers and paleographers, and it seemed unwise to duplicate. The books were donated and sent to the exposition on the understanding that they are to be used as a nucleus thereafter for a permanent library somewhere in Spain.

The question of the location of an American Library in Spain is still to be determined and will doubtless require a careful survey of the Spanish centers of culture. It is recommended that the council endorse the proposal of the committee that the establishment of a branch in Spain of the American Library in Paris at the earliest moment be effected. Spain offers an unusually fruitful field for library coöperation of this kind.

Though our hopes be high for the establishment of the American library in Spain, the committee should not be less alive to the opportunities for similar service in our neighboring Hispanic countries. American libraries are even more to be desired, if not more necessary, in the capitals of the Central and South American countries than in Spain, if we consider the matter from the practical side of international friendship. The ways and means for extending the American library throughout Hispanic America should be accelerated. North American books cannot compete with French, Italian, and Spanish books, not only because of the languages, but also because of the vastly higher prices of the North American books. These difficulties must be conquered in one form or another by friends of the book in the United States. The following means of overcoming these obstacles are suggested:

- (1) The establishment and maintenance of American circulating libraries, as has been done in Paris.
- (2) The establishment of American libraries in connection with cultural centers or clubs which are bi-national, *e.g.*, the Instituto Cultural Argentino-American, of Buenos Aires.
- (3) Gifts to national or municipal libraries and learned societies of substantial collections, such for example as have been made already by the Carnegie Endowment for International Peace in the Argentine and Chile and elsewhere, and on a larger scale by the Comisión Libre de Bibliotecas Populares of Argentina. The Yudin (Russian) collection in the Library of Congress may be cited as an example of international friendship which is distinctly worth emulating, 80,000 volumes of Russian literature having been sold to the Library of Congress for practically the cost of transportation.

The work of the committee has been seriously handicapped by the death of its former chairman, Dr. Peter Goldsmith, whose vision, sympathy, and untiring energy were dedicated so constantly to the furtherance of library coöperation with Hispanic peoples. Not only has the benefit derived from his personality been wanting, but the

admirable and altogether useful magazine—*Inter-America*—which he edited has ceased to function as the principal medium of intellectual coöperation between the Americas. It is earnestly hoped that his successor may be found and the excellent work of *Inter-America* may be revived.

One special feature of the magazine was its service as a medium for disseminating information among the libraries of the United States, Canada, and the Hispanic countries. Not only was considerable space devoted to information concerning current literature, periodicals, etc., but also subscriptions and orders were received and executed. At that time there was comparatively little demand for Hispanic literature in the United States, but the study of Spanish has grown enormously within the last three or four years, and now that this medium of coöperation has gone, the need is even greater.

In the report of last year it was suggested that an agency be established with correspondents in all the capitals to facilitate the exchange (by gift, sale, and subscription) of publications of all American countries in the Americas. This matter was discussed at the round table of the committee held at West Baden, but nothing concrete was determined upon. The subject will come up again for discussion at the round table, following the regular meeting of the committee in Washington, and it is confidently hoped that some definite action will be taken, looking toward the creation of such a medium of Inter-American exchange of books and bibliography.

This committee has learned with pleasure that the work of the technical committee on bibliography of the Pan-American Union, is making excellent progress—that Cuba, the Dominican Republic, Guatemala, Nicaragua, Peru, Uruguay and the United States have appointed national coöperative committees, and that the other countries will rapidly follow. Upon the suggestion of these committees, tentative agenda have been formulated and it is expected that in the near future the date and place of the congress will be fixed and the agenda adopted.

The committee desires to call attention to the recent lists of newspapers, periodicals, and bibliographies in the Pan-American Union, compiled by the librarian, Mr. Charles E. Babcock, whose useful services in this field are of special pride to this committee.

Upon good information we learn that a new edition of Dr. Ernesto Nelson's valuable work *Las Bibliotecas en los Estados Unidos* (Vol.

VI, of the "Biblioteca Inter-Americana", published by the Carnegie Endowment) will be shortly issued, the demand for this book having long exhausted the first edition of 5,000 copies.

The signs of the times point to a "bigger and better" cultural co-operation among the Americas. In this connection it is worth while noting the visit to the United States of the large company of distinguished Argentine educators, headed by Dr. Ernesto Nelson, who were afforded an opportunity to see at first hand our educational methods. We would also record with great pleasure the visit of Dr. Alfredo Colmo, the eminent Argentine jurist, who is president of the Instituto Cultural Argentino Norte-Americano of Buenos Aires.

The prime gestures on the part of the United States during the year 1927-28, were the visit of President Hoover in Central and South America, and the good-will flight of Charles Augustus Lindbergh around the Caribbean. Where our first official and first private citizen lead, we can do nothing less than follow.

JOHN T. VANCE, *Chairman.*  
CHARLES E. BABCOCK,  
R. R. FOWKER,  
ESTHER C. JOHNSON,  
MRS. MAUD D. SULLIVAN,  
NATHAN VAN PATTEN,  
ELIZABETH H. WEST.

#### A NEW BULLETIN

Professor William Whatley Pierson, of the University of North Carolina, in collaboration with Miss Cornelia S. Love, has recently completed work on a bulletin, which is now (August, 1929) being published by the University. This outlines a program for the study of the history and institutions of South America, and is intended for the guidance of women's clubs. We have been permitted to examine the bulletin through the courtesy of Professor Pierson. Following a rather elaborate and carefully worded introduction, fifteen meetings are outlined, the subject matter for each meeting being carefully analyzed and references for study given. It is intended that the meetings shall discuss:

- I. The European conquest of South America.
- II. The Independence of Spanish South America.
- III-XII. Argentina; Brazil; Uruguay; Paraguay; Chile; Peru; Bolivia; Venezuela; Colombia; and Ecuador.
- XIII. The Panama Canal.
- XIV. Relations of the United States and South America.
- XV. South America, The World War, and The League of Nations.

These are followed by a Reference Bibliography, a Publisher's Directory, Terms for the Course, and Schedule of meetings. Each of the fifteen sections is preceded by pertinent quotations from well known authors and statesmen, which bring out excellently the character of the Spanish conquest and administration; salient characteristics of the period of independence; and vital points connected with each country. By a judicious selection of these quotations, Professor Pierson and Miss Love bring out opposing points of view with reference to the topics suggested for club study. The bibliography contains only titles of books printed in the English language which are still in print, and so available for the course outlined. The Publisher's Directory is an excellent feature, for it shows where the books listed may be obtained. The schedule of meetings is ingeniously arranged, with topics for report and discussion, with blanks to be filled in by each club. For instance, for the first meeting, three topics for discussion are provided, namely:

1. Spanish nationality and temperament.  
    Led by .....
2. The Spaniards in South America.  
    Led by .....
3. Portuguese colonization of Brazil.  
    Led by .....

This bulletin is an indication of the increasing importance attaching to the study of Hispanic America in the United States. In it, Professor Pierson has departed from beaten paths and struck out into new fields. Undoubtedly, it will meet present needs, and women's clubs have in this bulletin an opportunity that has not been previously offered. This bulletin is, moreover, an expression of the new duties being glimpsed by our best universities and other educational institutions in broadening their scope and field of service by increasing their contact outside their walls. Miss Love was responsible for

the meetings numbered III to XII inclusive. Because of its excellence, the Introduction is here reproduced. It is as follows:

In the establishment of the independence of Spanish America, the United States have the deepest interest. I have no hesitation in asserting my firm belief that there is no question in the foreign policy of this country which has ever arisen, or which I can conceive as ever occurring, in the decision of which we had or can have so much at stake. This interest concerns our politics, our commerce, our navigation. There can not be a doubt that Spanish America, once independent, whatever may be the form of governments established in its several parts, these governments will be animated by an American feeling and guided by an American policy. They will obey the laws of the New World, of which they will compose a part.—Henry Clay, *The Emancipation of South America*.

When, in 1818, Mr. Clay made his famous speech, he might, as an observer of contemporaneous political and economic history, have been regarded as an enthusiast who was riding a hobby. Today, his judgment must be pronounced as sound and his prophecy as one of uncommonly keen insight into the long future. Indeed, the interests of the government and people of the United States in South America have grown in importance and variety so that they were not in their fullest amplitude encompassed in the observation and vision of Henry Clay. We hear much of the Monroe Doctrine, the Panama Canal, the Taená-Arica dispute, Chilean nitrate, Argentine meat, Brazilian coffee, Venezuelan chocolate, Pan-American conferences, and many other items associated with South America of interest to people concerned in one way or another with diplomacy, literature, adventure, travel, commerce, finance, and pugilism. South America has become the concern of scholars and writers, of journalists and editors, of travelers and scientists, of statesmen and business men—in fine, of almost every one occupied constructively with modern civilization.

Standard courses in our universities and colleges are offered on the history, languages, literature, geography, and commerce of South America and of Latin America in general. In addition there is a disposition to introduce such courses into the curricula of our larger secondary schools. It is the conviction of the writer that these subjects may safely be compared as to importance, interest, and cultural value with those longer established in the esteem of mankind. The position of South America in our scheme of thought is, I believe, no longer a question of serious debate.

Elihu Root, after his official visit to South America in 1906, said :  
I believe that no student can help seeing that the twentieth century will be the center of phenomenal development in South America.

Such an opinion has been endorsed by way of definite expression or by way of implication by other statesmen of distinction who have visited South America, such as Theodore Burton, Robert Bacon, William J. Bryan, Henry White, James Bryce, Elbridge Colby, Theodore Roosevelt, and Herbert Hoover. After his visit, Roosevelt said to John Barrett :

Every American in any degree interested in foreign travel, and especially in the mighty potentiality of South America and our Pan American relations, should visit that continent at the first opportunity. He should make the journey if possible down one coast and up the other, with convenient trips to the interior, and of course across the continent through Argentina and Chile. Such travel in person unfolds before one's eyes and particularly to those who are in doubt, as nothing else can, a wonderful continent awaiting development, great nations ambitious for future power and progress, great peoples, great problems, a peculiar and remarkable civilization, and a material, economic, social and political opportunity of profound interest and immeasurable importance to the United States.

Of South America, Mr. Barrett, in 1922, wrote :

The call of South America is the call of a continent occupying 7,500,000 square miles, or an area equal to the United States and Europe combined; having a population of 65,000,000 increasing rapidly by reproduction and immigration; conducting an annual foreign trade valued at \$3,000,000,000; the greatest foreign field, viewed geographically and economically, awaiting development for United States commerce and investment; producing nearly every product, food, mineral and timber that the world needs; and yet again in the infancy of its possibilities.

South America, of course, is a part of a larger whole, Latin America; and in the formation of our concepts of inter-American relations that continent should not be disassociated. To this more inclusive term and with reference to economic relations, former President Coolidge, in 1926, when addressing the Pan-American Congress of Journalists, said :

In recent years has come a profound realization that the commercial interests of Latin America and the United States have a strong natural bond. Since the World War we have enlarged that interest by vastly increasing our shipping facilities between here and various Latin American ports, by establishing branches of our banks, and by the investment of great amounts of capital. It is estimated that in 1923 United States capital invested in Latin America amounted to \$3,760,-

000,000; in 1924 a trifle over \$4,000,000,000; and in 1925 it was \$4,210,000,000. . . . Figures compiled by our Department of Commerce show that in 1910 our exports to Latin America, including the Guianas and all the West Indies except Porto Rico, amounted to \$279,663,000, and our imports from there amounted to \$408,837,000. Last year the exports were \$882,315,000 and the imports \$1,041,122,000. . . . It may be interesting to compare these 1925 figures with those for our total foreign trade in that year, which were: exports, \$4,909,396,000; imports, \$4,227,995,000. Thus we see nearly one-fifth of all our exports went to Latin America and practically one-fourth of our imports came from there.

Despite the permanency of the interests that have been mentioned above—possibly because of it—despite the enlarged information which multiplied contacts have brought about, there are grave problems in the relations of the Americas. There are political fears, racial antipathies, international rivalries, various alleged superiorities, and some misunderstandings and misconceptions. Some of these problems may be solved—all of them reduced in seriousness—by greater knowledge and understanding, the sort of understanding that is enriched by sympathy and the sort of sympathy that comes from intelligent comprehension, rather than mere enthusiasm. In L. Q. C. Lamar's memorial speech on Charles Sumner, addressed to the people of the north and the south, he said with deep feeling: "My country, know one another, and you will love one another". Perhaps knowledge and the close intimacy of acquaintance will not infallibly produce among the nations so strong an emotion as love, but their benefits and results are relied upon to weaken the effects of ignorant prejudice on the one side and of uninformed enthusiasm on the other. What the people of Latin America think of us and, by the same token, what we think of those countries and peoples, are matters of mutual concern and interest. It is, of course, a hazardous venture dogmatically to state what one people thinks of another. These thoughts are elusive to the inquirer; they are likely to be inconsistent, with praise and blame standing in bewildering alternation and contradiction. In South America, the traveler may not infrequently meet an admirer of the United States. Undeniably, the United States enjoys there great prestige and favor. Also, there is indifference; there is hostility. And the criticism is the more articulate, finding on occasion popular and organized expression.

What are the charges leveled against the United States by South Americans? From the published works of avowed critics, as well as

from statements made casually in conversation, the following adverse opinions may be taken as representative of this group : (1) The United States is a nation of dollar-chasers—and efficient at the job, a materialistic people given over to industry and machinery, but without artistic appreciation; (2) they are a people given to speed and rapid transit, to a bustling energy which gets things done quickly, but which sacrifices quality to quantity (3) they are a people who profess democracy in theory, but do not achieve it in reality, suffering a loss of personal liberty by yielding to the requirements of an orthodox conventionalism; (4) they are a people given to divorces, to lynchings and law-breaking, and to graft on both a petty and a stupendous scale; (5) they are a people devoted by inheritance and practice to imperialism—and that, too, when hypocritically they profess the contrary. South Americans in many cases are suspicious of the Monroe Doctrine, they condemn interventions, they dread economic penetration and exploitation, they point out that the United States now exercises jurisdiction over more than a million square miles of territory formerly Latin-American, they say "The United States has been imperialistic in the past; it is so today and will be more imperialistic tomorrow".

In the United States, there have been and are many friends of Latin America. The literature of condemnation and criticism is not large; and, such as it is, it could scarcely be regarded as organized propaganda. Nevertheless, from commentaries on political history, on business practice, and on social customs, as well as from statements of opinion by citizens of the United States resident in South American countries, may be derived a body of criticisms, of which the following are not regarded as extreme: (1) Latin America is the home of revolutions, where the people have not learned to accept the will of the majority as expressed by the ballot, where they accept the settlement of political problems by force, and where dictatorship is the best form of government; (2) the Latin Americans are a people who look on political office as a sinecure rather than as a public trust; (3) they are a people who love leisure and who might daily confess that they have done today what they should not have done and that they have put off until tomorrow the things they should have done today; (4) they are a people who are unmoral, immoral, and unreliable, without race distinctions and color lines, but in their way entertaining; (5) they are a people "who will receive the stranger and take him in",

a people of large and petty graft; (6) they are a people who have allowed their best ideals to become fantastic, with their exaggerated respect for family, their exaggerated conception of honor and etiquette, their exaggerated heroism which becomes heroics, their exaggerated eloquence which becomes high-flown verbosity; (7) they are a people who think about many subjects, but who do not get at the bottom or heart of any; a people of ideas, but not ability to put them into practice. Many "Americans" abroad in South America say much of "the extraordinary combination of modern commercialism, medieval ideas, and general slovenliness" that obtains there.

We of the United States are likely to hold that the criticisms of the South Americans directed at us are misleading, if not wholly false. The same might be said of the "American" conception of the South Americans. Both sets of criticisms have in them more than a grain of truth, but there is need for a revision of opinions somewhat after the good work of Tancredo Pinochet in the book, *The Gulf of Misunderstanding or North and South America as seen by each Other* (Boni and Liveright, New York, 1920). Without attempting to predispose the student who uses this bulletin, since the formation of opinion is the student's own right and duty, the writer, after some travel in twelve of the countries to the south of us, will limit himself to the statement that he is a genuine friend of Latin America, that he admires its civilization, and that he respects its achievement.

No comment seems necessary as to the method followed in preparing this bulletin. A word as to the selection of books suggested for a study, however, is pertinent. Only books written in English and, of these, only those in print were included. The astonishingly rich bibliography of works in Spanish, Portuguese, French, German, and Italian, was not drawn upon. Those who may be interested in works written in these languages may find C. K. Jones, *Spanish American Bibliographies* (Baltimore, 1922), H. Keniston's *List of Works for the Study of Hispanic-American History* (Hispanic Society of America, New York, 1920), or my *Hispanic-American History: A Syllabus* (University of North Carolina Press, Chapel Hill, 1926) of some aid. The limitation of the bibliography to books in print has resulted in certain anomalies. Books relatively old will be found included, whereas such books as Pinochet already mentioned and J. O. P. Bland's *Men, Manners and Morals in South America*, 1920, to which reference would have been made, have to be omitted. Those selected

vary greatly in merit, as was inevitably the case in view of the wide range of topics offered.

Since the University of North Carolina Press has under way the project of the publication of the Inter-American Historical Series which will probably contain fifteen volumes of history and an historical atlas, it is thought especially fitting that the University should issue this bulletin.

Miss Love is responsible for the programs III through XII. In the pleasant work of collaboration, her share of the labor has been larger than mine.

W. W. P., JR.

July, 1929,  
Chapel Hill, N. C.

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The trustees of the John Simon Guggenheim Memorial Foundation recently announced a gift of \$1,000,000 from former Senator and Mrs. Simon Guggenheim to establish a system of exchange fellowships between the United States and Hispanic America. While the fellowships offered by the foundation have been available from the beginning for study in any country in the world, the number of applicants has been so large that the creation of this distinct system of fellowships reserved for Hispanic Americans, on an exchange basis, represents an important extention of the foundation's work. The first of the Hispanic American fellowships will be granted in Mexico early in 1930. This is a distinct move toward a closer and more intimate cultural understanding and appreciation between the scholars and professional men of the United States and Hispanic America. It is in harmony with the resolution passed by the International Conference of American States held at Havana in January, 1928, which emphasized the importance of encouraging the exchange of professors and students among the different countries of the two Americas, and promoting the study of each other's language, history, government, geography, and literature. In order to make the relationship of mutual benefit to the two continents, the fellowships are set up as an exchange rather than as a one-way system. Since 1925, Hispanic American exchange fellowships have been awarded to Professors J. Fred Rippy, Duke University; Gordon F. Ferris, Stanford University; E. R. Dunn, Smith College; A. P. Whitaker, Western Reserve

University; A. B. Thomas, University of Oklahoma and Carroll W. Dodge, Harvard University. In 1926 and 1927 Professor C. H. Haring of Harvard University, made a thorough study of the possibilities of extending the fellowships to Mexico and South America. After considering Dr. Haring's report, the trustees approved the following plan:

The Latin American Exchange Fellowships, in the first instance, shall be open to citizens of the United States, and of the Argentine Republic, Bolivia, Brazil, Chile, Mexico, Peru, and Uruguay, on terms generally similar to those hitherto governing the John Simon Guggenheim Memorial Fellowships in the United States. The new Fellowships will be granted for independent research and also for training in the various professions, including engineering and teaching. Special consideration will be given to applicants who desire to study political, social, or scientific problems which are common to the countries of North and South America. If the above-outlined Latin American Exchange Fellowships are successful, the Trustees will consider extending them to the other countries of Latin America as rapidly as proper arrangements can be made.

The stipend for these Fellowships, either for Latin America or for the United States, will normally be \$2,500 for twelve months plus a travel allowance proportionate to the distance which the Fellows have to travel to the places of their study. The fellowships will be awarded in the first instance for one year, but with the possibility of renewal. For Fellows from the Latin American countries, a knowledge of the English language will not be a requirement; instead, an extra period of from six to eight months, covering the time between the end of the university year in Latin American countries in December and the opening of the university year in the United States in September, will be allowed where necessary in order to give appointees an opportunity to acquire a working knowledge of English.

It is expected that candidates for these Fellowships will generally be graduates of universities or professional schools, or persons who in other respects have taken advantage of the educational facilities available in their own countries in their special fields of study. Fellowships will be open to men and women, without distinction of race, color or creed. Fellows from the United States to Latin America, or from Latin America to the United States, will not be restricted in choice of university or other place of study.

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The Quivira Society of Los Angeles, California, will soon publish Luxan's Relation of the Espejo expedition. This is the narrative referred to by W. F. Hodge in his little Espejo reprint in 1928. The work on this volume is being done by Dr. Rey and Dr. Hammond.

## BIBLIOGRAPHICAL SECTION

### LAS SIETE PARTIDAS IN FULL ENGLISH DRESS

[Address before the American Foreign Law Association, at New York City, March 15, 1929.]

At last we are able to put forth a complete English translation of the learned Alfonso's medieval code. For more than a century, English readers of it have been dependent upon the translation of Moreau Lislet and Carleton which was never intended to be complete<sup>1</sup> and has long been out of print. Thanks to the patience and industry of the late Dr. S. P. Scott we have the entire work in English and thanks to the generosity and vision of Mr. William Kix Miller, and the Commerce Clearing House of which he is the head, that work will soon be accessible to all readers of English.

There is no task more thankless than that of the translator. A judicial experience of many years in countries where court interpreters were regularly employed, long since convinced the writer that no two translations into another language are exactly alike. The shades of meaning in all languages are so numerous and varied that the most expert of linguists often differ among themselves. When to that source of divergence is added the difficulty of translating from a modern language in a stage as remote from us as the English of Bracton's day we can form some estimate of the obstacles encountered by Dr. Scott in this undertaking. Only a scholar, versed in both law and language of Spain and of America, is qualified to pass on his work, and it is hardly necessary to add that there are none too many such in the United States; but now that we have this famous work entirely in English, after so much labor and delay, we must see that it circulates and is read. It should promote that purpose to give the reader a general idea of it before asking him to plunge *in medias res*. Let us, therefore, by the way of preliminary, try to visualize its background by inquiring briefly into its history, sources, authorship, character,

<sup>1</sup> Its title page reads, *The Laws of Las Siete Partidas which are still in force in the state of Louisiana*. Of course only a judicial finding could have determined what laws were "still in force"; but the translators appear to have selected at their own discretion.

and place in the legal world and finally by taking a bird's-eye view of its arrangement and contents.

LANDMARKS OF SPANISH LAW	{	<i>Civil Code, 1889</i>
		<i>Las Siete Partidas, 1263</i>
		<i>Forum Judicum, ca., 652.</i>

*Las Siete Partidas* constitute one of the outstanding landmarks of Spanish, and indeed of world, law and occupy an unique place in its evolution. For they stand midway between the *Forum Judicum* of the seventh century and the Civil Code of the nineteenth, being about six hundred years after the former and before the latter. For about three and a half centuries following its promulgation the *Forum Judicum*<sup>2</sup> remained the sole compilation of general laws in Spain. There were, of course, the local *fueros*<sup>3</sup> and some of these afford great interest, notably those of Aragon whose *Fueros de Sobrarbe*, composed probably before the eleventh century, have been called the Magna Charta of the Aragonese nobles and were safeguarded by an official styled *el justicia*, the last of whom, Juan Lanuza, was executed in 1591 by order of Felipe II. notwithstanding the latter had sworn to observe the *Fueros*. They were not, indeed, formally abrogated until 1707.

Toward the end of the tenth century the *Conde de Castilla*, Don Sancho García, inaugurated the preparation of a new code which ultimately became known as the "Fuero Viejo".<sup>4</sup> Additions to it were made at the cortes of Nagera in 1176 and it continued to have a certain force until nearly the middle of the fourteenth century.<sup>5</sup> It was probably composed in Latin,<sup>6</sup> and in its final form consisted of five books loosely arranged and without logical accumulation of

<sup>2</sup> See Scott's translation for the Comparative Law Bureau under the title of *The Visigothic Code* (1911).

<sup>3</sup> These are treated in *Partida I.*, tit. II., laws VII-IX at some length as the equivalent of custom and usage. "The *fueros* which contain the customary jurisprudence are distinctly akin to the customs of England and Germany; the *wergild* and the system of compurgation, the primitive elements of election and representation, are clearly traceable." Stubbs, *Const. Hist.* (6th ed.), sec. 8.

<sup>4</sup> It is reprinted in *Códigos Españoles* (Madrid, 1872), II., preceded by a valuable historical sketch (Antonio de San Martín, editor).

<sup>5</sup> *Ibid.*, p. 239.

<sup>6</sup> *Ibid.*, p. 226.

contents. Book III contained some provisions regarding proof and procedure but the work seems to have been designed primarily to meet the peculiar conditions prevailing in Castile and to adjust the relations between its king and the nobility; and its force appears never to have extended beyond the territory of that kingdom and León. This necessarily left the *Forum Judicum* operative in other parts of Spain with consequent lack of uniformity.

The thirteenth century was one of general advance for the Spanish Christian kingdoms and law shared in the results. Moreover, as we shall see, "the Bologna revival . . . soon spread its influence to Spain".<sup>7</sup> The surrender of Seville to Fernando III. in 1248, left that monarch leisure to consider the internal affairs of his dominions and among other evils that confronted him were the diversity and confusion of the laws. To remedy these he conceived a comprehensive scheme of codification which was actually initiated by commencing the preparation of a new work entitled the *Setenario*.<sup>8</sup> But before this or any other part of his plan could be carried into effect he died.

#### ALFONSO THE LEARNED

The son and successor of San Fernando was Alfonso X., commonly known as "*el sabio*" (the learned), because of his attainments in science and letters. Almost immediately upon his accession he took up his father's legal project and his reign was marked by a succession of works culminating in the *Partidas*. Opinions differ<sup>9</sup> as to whether the *Setenario* was actually completed under Alfonso; but he caused the publication of the *Especulo*<sup>10</sup> ("*Espejo de todos los derechos*" or

<sup>7</sup> Hunter, *Roman Law*, p. 107; cf., post n. 27, San Martín, *Códigos Españoles*, 2 Int. XXIV.

<sup>8</sup> "His object was to select the best laws, contained in the *fueros*, general as well as municipal, and to form therefrom a single body which would be exclusive and general throughout the kingdom, thus introducing order and conformity and eliminating abuses and evils." La Serna, "Introducción Histórica", *Códigos Españoles*, 2, IV.

<sup>9</sup> Marina thinks that it was completed only as the *Partidas*; La Serna seems to be certain that it was finished as a separate work.

<sup>10</sup> "This code was begun, says the king, with the advice and approval of the archbishops, bishops, rich men, and those learned in the law of that period, compiling the best and most equitable *fueros* of Leon and Castile. It was communicated to the towns, sealed with the leaden seal; it was directed to govern all and was intended principally for use in appeals to the king's court. Its authority

Mirror<sup>11</sup> of all rights), and later, (probably)<sup>12</sup> the *Fuero Real*.<sup>13</sup> The four books of the latter touched on many subjects belonging to practically all branches of the law—government, criminal law, private, substantive law, and procedure. The deficiencies most apparent in it—superficiality and lack of logical arrangement—are those of the age to which it belongs. But it was not without its merits. A Spanish author<sup>14</sup> says of it:

This code is not a scientific work, but a practical one, a work of observation and compilation for a national code. . . . Incomplete in the political part, it is orderly in the civil, the procedure being founded in the soundest and wisest principles and its conclusions logically drawn excepting the system of proof which belongs to the backward state in which the people were. Despite the limited commerce of that period, it contains a mercantile part and its penal portion presents a calendar sufficiently complete in view of the condition of society. We are inclined to conclude, therefore, that the *Fuero Real* can be considered a code where sufficient unity and method are displayed, that there is clarity in its laws, that its provisions are not casuistical and that it met the needs of the time.

#### According to Altamira<sup>15</sup> the *Fuero Real*

offered certain novelties that indicate the inflow of the Roman law into the field of civil law. Such are various of the rules of intestate succession; testamentary executors; adoption—whose regulation is adjusted to the Justinian system; the accession of “insula nata”; and a good part of the theory of contracts. In other matters (such as “mejoras”, the prescriptive period for gaining title, and marriage), the “Fuero Real” rectified the earlier municipal “fueros” without adopting the Roman law; sometimes reviving mandates of the “Fuero Juzgo” that had fallen into desuetude; at other times establishing rules of distinct form borrowed

was great in the sixteenth century, although forgotten since”. La Serna, *ubi supra*, 2, V.; Altamira, *Continental Legal Hist. Ser.*, I. 620.

*El Especulo* for us, signifies no more than the original plan of *Las Siete Partidas*. Henas y Múñoz, *Códigos Antiguos de España* (edited by Alcubilla, Madrid, 1885), I. 590.

<sup>11</sup> Cf., the English “Mirrour of the Justices”.

<sup>12</sup> La Serna admits that it is hardly more than conjecture, *Introducción Histórica, Códigos Españoles*, 2, V.

<sup>13</sup> Likewise reprinted in *Códigos Españoles*, I. “The learned king proceeded for its promulgation to communicate it to each of the councils in the form of a concession and in the guise of a municipal *fuero*”. Henas y Múñoz, *Reseña Histórica* (edited by Alcubilla) I. 103.

<sup>14</sup> Henas y Múñoz, *Códigos Antiguos de España* (edited by Alcubilla, Madrid, 1885).

<sup>15</sup> *Continental Legal Hist. Ser.*, I. 628.

from the Canon law or other sources. A novelty of importance, and not of Roman origin, is the testament by agency ("por comisario").

The introduction to the *Fuero Real* contains the injunction "that this *Fuero* be observed forever";<sup>16</sup> but whether this was anything more than the expression of a hope may well be doubted. Political conditions were decidedly unfavorable to a piece of legislation of this character<sup>17</sup> and its active life was brief. In Castile it was displaced as early as 1272 by reestablishing the *Fuero Viejo*,<sup>18</sup> though the former retained a certain authority long after the promulgation of the *Partidas*,<sup>19</sup> and many of its provisions are even found in the *Novisima Recopilacion*<sup>20</sup> of 1805.

#### CONSUMMATION

In the year following the promulgation of the *Fuero Real*, the actual compilation of the new instrument which was to realize the dream of San Fernando, began. The work is supposed<sup>21</sup> to have been completed in 1263—"seven books in seven years". At first it was known as *Libro (or Fuero) de las Leyes* and it was not until the following century<sup>22</sup> that it came to be called *Las Partidas* or *Leyes de Partida*.

Who were the real compilers of this famous work? To this question various answers have been given. Some have ascribed it to the Italian jurist, Azo, whom Bracton copied so copiously in the same

<sup>16</sup> Cf., La Serna, *Códigos Españoles*, 2, VI.

<sup>17</sup> "The nobility of Castile, knowing that by this code it was deprived of its ancient *fueros* and privileges, and that the power of the crown was strengthened and increased, formed the plan of overthrowing it and pursued its purpose to the extremity of opposing and conspiring directly against the sovereign, presenting an armed force in the villa of Lerma". Escrivé, *Diccionario, ad verbum*.

<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*

<sup>20</sup> *Ibid.*, Ley 1, tit. 2, Ley 1, tit. 4, Leyes 1, 2 and 3, tit. 5, Leyes 1, 2, 3, 4, and 5, tit. 30, Book 1; Ley 1 tit. 1, Leyes 1, and 2, tit. 2, Book 3, et al. of the *Novisima Recopilacion* are said to be respectively, Ley 8, tit. 5, Ley 8, tit. 5, Leyes 2 and 3, tit. 5, Ley 5, tit. 5. Book 1, Leyes 1, 2 and 4, tit. 24. Book 4, Ley única, tit. 3, Book 1, Leyes 1 and 2, tit. 6, Leyes 3 and 4, tit. 6, Book 1, et al. of the *Fuero Real*.

<sup>21</sup> "Its compilation was begun in 1256 and was completed, it would seem, in 1265" according to Altamira (*Continental Legal Hist. Ser.*, I. 621) La Serna, (*Códigos Españoles* II. Int. XV.) considers the exact date uncertain.

<sup>22</sup> Antequera, *Historia de Legislación Española*, p. 268; *Códigos Españoles*, 2, Int. XV. Altamira (*Continental Legal Hist. Ser.*, I. 621) gives the time as "in the 1300s".

century when the *Partidas* were composed.<sup>23</sup> Rejecting this view La Serna<sup>24</sup> suggests as authors, Jacome Ruiz<sup>25</sup> (Jacobo de las Leyes: many of whose materials, according to Altamira,<sup>26</sup> were later incorporated into the *Partidas*)'; Fernando Martínez, "a prebendary of Zamora, bishop-elect of Oviedo, 1269, and ambassador of the Italian king near the pope"; and Roldán who, "besides being reputed as a legislist, edited the *Ordenamiento de las Tafurerias*", a regulation of state-owned gambling establishments. These and others are selected out of an extensive group; for as Altamira<sup>27</sup> says,

We do not know who were the authors of the *Partidas*; and in view of our ignorance it is not strange that critics ascribe that work to the well-known juris-consults of the time, some of whom are cited in its text.

But elsewhere<sup>28</sup> the same author concedes

The rédaction of the "Partidas" was the work of several jurists whose names are not cited in the text, and was done under the supervision, and subject (how much cannot be determined) to the active intervention of Alfonso, who was himself an author of zeal.

But, long before Altamira, Burriel, whose view was adopted by the Academy of History, maintained that there was but one author of the *Partidas* and that was Alfonso himself; stressing uniformity in plan, similarity in style to the king's other works, the acrostic on his name, and a clause in his testament executed at Seville in 1283, in which he mentions "the book we have made . . . las Siete Partidas."<sup>29</sup>

At any rate, Alfonso seems to have had no Tribonian (unless Ruiz) and this may further indicate his own active participation. Clearly his part seems to have been less perfunctory than Justinian's—more like that of Napoleon or possibly Hammurabi.

#### ENFORCEMENT

The new instrument did not come into force upon its completion nor for a long period thereafter. Moreover, it appears<sup>30</sup> that the king

<sup>23</sup> See Maitland, Bracton, and Azo, (Selden Soc. Pub. VIII, London, 1895).

<sup>24</sup> *Códigos Españoles*, II. Int. VI-VIII.

<sup>25</sup> Altamira, *Continental Legal Hist. Ser.*, I. 654.

<sup>26</sup> *Ibid.*

<sup>27</sup> *Ibid.*

<sup>28</sup> *Ibid.*, p. 621.

<sup>29</sup> Antequera, *Historia de la Legislación Española*, p. 266.

<sup>30</sup> See Altamira, *ubi supra*, p. 622.

went on confirming existing local *fueros*, and conceding new ones inconsistent with the *Libro de las Leyes*. From these facts, some, and especially Sempere, have argued that Alfonso designed only to publish a "book of doctrine"—"a legal encyclopedia, analogous to others which he made in other fields of knowledge in conformity to the spirit of the time"<sup>31</sup>—and that he never intended the work as a code of actual law. But that view conflicts with passages like this:

We are pleased to command that all of our dominion be governed by these laws and no other.<sup>32</sup>

It seems highly probable, however, that such commands were intended really to govern a future generation and for the contemporary one, to be rather educative and preparatory. For Alfonso, if he deserves half his reputation, was too "wise" not to know that immediate promulgation was premature.

Immeasurably superior as were the *Partidas* to any preceding Spanish legislation their merits did not impress the contemporary nobles and *hidalgos*. As a learned editor<sup>33</sup> observes, the new code, composed in great part of Roman law and decretals, was at war with the established prejudices of the country and opposed by powerful interests. Nor was there in this anything exceptional. That identical situation existed during the same century in England where, just a score of years before the compilation of the *Partidas* was begun, the barons at Merton returned their famous negative answer to a proposal to adopt the humane, Roman doctrine of Legitimation.<sup>34</sup> The thirteenth-century attitude toward "foreign" (*i.e.*, Roman) law was much the same in both Spain and England; only in the former, thanks to Alfonso's foresight, it was eventually overcome, while in the latter, and its offshoots, it has continued ever since. "The English Justinian" was, unfortunately, neither a Roman nor a Spanish<sup>35</sup> one. Again, "if the immediate imposition of so considerable a mass of innovations upon the cities of the Castilian crown had been possible, the derangements produced in civil life would have been enormous. For-

<sup>31</sup> *Ante note 1.*

<sup>32</sup> *Prólogo.*

<sup>33</sup> La Serna, "Introducción", p. XVII.

<sup>34</sup> See Pollock and Maitland, *History of English Law*, I. 189.

<sup>35</sup> Alfonso was "often called the Spanish Justinian". Sherman, *Roman Law in the Modern World*, I. sec. 289.

tunately, impositions of this sort are not reconcilable with the processes of history. When attempted they are futile."<sup>36</sup>

It is, therefore, a mark of Alfonso's vision and sagacity that he did not seek to put his code into force during his lifetime. But to doubt that he intended it to become in time a real body of law, is not only to accuse him of inconsistency—not to say insincerity—but to deny him his worthiest claim to statesmanship.

#### LATER HISTORY

Thus, during the reign of the learned king and several successors, the force of the *Partidas* was never more than "doctrinal" or, as we would say, academic. But such force continued to grow. For, says Altamira:<sup>37</sup>

The compilation of Alfonso X. went on gaining ground among men. Among students, notably the lawyers, and in the universities<sup>38</sup>—classes especially influenced by the Roman and the Canon law—the *Partidas* served as a text and reference book. This is indicated by the glosses of the manuscript copies of the 1200s and 1300s, the fact of its being read and expounded in the university classes (in Portugal and Catalonia as well), and by the publication of isolated fragments as doctrinal texts. This tendency was favored by the strictly didactic character (scientific, ethical, or historical) of not a few of the statutes—as had been likewise true of the "Fuero Juzgo". Doubtless through the influence of lawyers educated in the universities, who were already devoting much thought to public affairs (Alfonso X. states in more than one place in his works that he consulted "men learned in the law"), many portions of the *Partidas* were gaining authority in legal theory, sanctioned by the then new and great prestige of the Roman law, as well as in the practice of the courts, and in the opinions of counsel. One cannot otherwise understand why, in a number of cortes (*e.g.*, those of Segovia in 1347), representations were made to the king against certain details of the *Partidas*, which if they had not been enforced, could not fittingly have been characterized by the petitioners as infractions of the law.

Thus the University of Salamanca, in whose law school the *Partidas* were studied, became one of the potent agencies for the diffusion of Roman law in the peninsula. But it was not until 1348, more than eighty years after their completion, that the *Partidas* were really pro-

<sup>36</sup> Altamira, *Continental Legal Hist. Ser.*, I. 629.

<sup>37</sup> *Ibid.*, pp. 622-623.

<sup>38</sup> Several of the Spanish universities, including that of Salamanca, were established in the same century with the *Partidas* "in imitation of Bologna". Sherman, *Roman Law in the Modern World*, I. 288.

mulgated.<sup>39</sup> At the cortes of Alcalá of that year, an *ordenamiento* was passed and confirmed by Alfonso XI., great grandson of the learned king, by which the *Partidas* were given force subject to the municipal *fueros*, the *Fuero Real*, and the privileges of the nobles.<sup>40</sup> This, of course, gave them only a suppletory force, and it was only in the *Leyes de Toro*,<sup>41</sup> promulgated at the cortes of Toledo, in 1505, that the *Partidas* acquired full force. Just a quarter of a century later, a royal decree<sup>42</sup> provided:

We order and command that in all causes, suits, and litigations in which the laws of this compilation do not provide for the manner of their decision, and no such provision is found in special enactments passed for the Indies and still unrepealed, or those which may hereafter be so enacted, that then, the laws of this our kingdom of Castile shall be followed, in conformity with the law of Toro, both with respect to the procedure to be followed in such cases, suits, and litigations, and with respect to the decisions of the same on the merits.

This had the effect of extending the *Partidas* to the Spanish colonies—that far flung empire which its *conquistadores* acquired for Spain in the western hemisphere as well as in Africa and Asia, and such extension gave the *Partidas* the widest territorial force ever enjoyed by any law book. For Justinian's *Pandects* were practically confined to the eastern empire, until long after Rome's rule had ended in the west. But in Spanish America, as well as in the Philippines, the *Partidas* were and are the common basic law. Nor has their force been limited, in the western hemisphere, to Spanish America. In a considerable group of jurisdictions now under the sovereignty of the United States, civilized law began with the *Partidas*, or shortly before. Thus, in Louisiana,<sup>43</sup> the publication by Governor O'Reilly in 1769 of

An extract from the whole body of Spanish law, with references to the books in which they are contained . . . followed from that moment by an uninterrupted observance of the Spanish law, has been received as an introduction of the Spanish code in all its parts

<sup>39</sup> "It is not until the 14th century that the civil law of Justinian supersedes the ancient customs", (Stubbs, *Const. Hist.* I. sec. 8).

<sup>40</sup> Altamira, *Continental Leg. Hist. Ser.*, I. 623.

<sup>41</sup> "The *Partidas* triumph in them in the law relative to sealed testaments; various particulars of succession; the cotenant's right of preferential purchase; the wife's dowry, implicitly recognized at the same time as that derived from the husband to which was given the erroneous name of *arras*; prescriptive periods; the validity of the *Senatus Consultum Vellejanum* (relating to a wife's contracts) and in other details." *Ibid.*

<sup>42</sup> *Recopilacion de las Leyes de Indias*, lib. II, tit. I, ley 2. See *Ibid.*, p. 633.

<sup>43</sup> Beard v. Poydras, 4 Mart. 348 (1816).

—which of course included the *Partidas*; and in fact, they were cited in the opinion of which the foregoing forms a part, and for a long time thereafter in Louisiana Reports, besides being translated, as we have seen<sup>44</sup> under the authority of the legislature of that state. Indeed, so late as 1924, the same supreme court devoted the major part of an opinion<sup>45</sup> to a law of the *Partidas*, thus more than justifying the guarded expression of an eminent Louisiana lawyer:<sup>45\*</sup>

The *Partidas* are still worthy of careful study . . . some of its provisions remained as a part of the law of the state.

But it was not only true of the state; for throughout the vast province of Louisiana the *Partidas* were once theoretically in force. The Missouri Supreme Court declared:<sup>46</sup>

We are informed that the first printed book brought into this state, containing any Spanish law, was the *Partidas* and that event occurred later than the year 1820.

So in the territory acquired from Mexico, the Spanish law remained in force in Texas until 1840,<sup>47</sup> and the *Partidas* are frequently cited<sup>48</sup> in the early supreme court reports of that state. In California the Spanish law continued for a decade longer and there, too, the *Partidas* were often invoked<sup>49</sup> by the early judges.

That their extension to Spanish colonies was no mere formality will appear from even a casual inspection of the Supreme Court Reports of one of them, to-wit, the Philippines. The series did not commence until 1901, yet in nearly every volume there are citations to the *Partidas* while as regards at least one important subject—divorce—that collection long contained the only law in force.<sup>50</sup> Prior to the promulgation of the Civil Code, resort to the *Partidas* must have been relatively much more frequent. Water rights and irrigation, e.g., were governed thereby down to the year 1866.<sup>51</sup>

<sup>44</sup> *Ante* note 1.

<sup>45</sup> *Carbajal's Succ.*, 154 La., 1060, 98 S, 666, 30 A. L. R. 1231.

<sup>45\*</sup> William Wirt Howe, "Roman and Civil Law in America", in *Harvard Law Review*, XVI, 342, 351.

<sup>46</sup> *Riddick v. Walsh*, 15 Mo. 536 (1852) per J. Scott.

<sup>47</sup> *Carroll v. Carroll*, 20 Tex. 731 (1858).

<sup>48</sup> See e.g., *White v. Gay's Ex'ts*, 1 Tex. 388, 389.

<sup>49</sup> See e.g., *Scott v. Ward*, 13 Cal. 473 (1859).

<sup>50</sup> *Benedicto v. de La Rama*, 3 Philippine Reports, 34, 40. Cf. Willard's notes on the *Spanish Civil Code*, 16 et seq.

<sup>51</sup> *Ker v. Couden*, 6 Philippine Reports, 735, 4 Off. Gaz. 732 affirmed 223 U. S. 268, 56 I. ed. 432.

So in Porto Rico;<sup>52</sup> and doubtless a careful search would disclose references to the *Partidas* in the law reports of numerous other jurisdictions.

### SOURCES

#### 1. Roman Law

The *Partidas* contain little direct information as to the materials used in compiling them. The compilers refer vaguely to their authorities as *los sabios antiguos*, evidently a translation of Justinian's *antiqui prudentes*<sup>53</sup> and probably the *Corpus Juris Civilis* was most used; for the compilers of the *Partidas* were not, like their predecessors of the *Forum Judicum*, obliged to rely on abbreviations of Alaric's type. Altamira says:<sup>54</sup>

The renascence of the Justinian law in Europe, thanks to the labors of the Italian and French jurists, especially from the end of the 1000's onward, did not fail to show effects in the Peninsula. . . . The Justinian element did not attain importance there until the 1200's. In that and the preceding century, the knowledge and cultivation of the Roman law in Spain is attested by the names of various jurisconsults (some of them students or professors in foreign universities, for the most part at Bologna. Others of Italian origin, resident in Spain, as the magister Jacome Ruiz); by the diffusion of Justinian texts in the original or translations; and by the existence of legal works inspired by the Justinian system.

We have seen<sup>55</sup> how extensive was the resort to Roman law in compiling the *Fuero Real*. Analysis of the *Partidas* will show a marked increase in this tendency and we have only to compare the latter with the *Forum Judicum* to ascertain how vastly greater the Roman element had now become. Thus, while the former shows little trace of *patria potestas*, the latter adopts its "entire theory . . . with negation of maternal authority".<sup>56</sup>

"The matter of the *Partidas*", observes Hunter,<sup>57</sup>

is very largely derived from the Roman law, *Partida III* being taken from it almost exclusively and *Partida V* almost word for word.

<sup>52</sup> See 3 Porto Rican Reports XXXIII., 4 *Ibid.*, XX., 6 *Ibid.*, XI., 7 *Ibid.*, XIX.

<sup>53</sup> *Dig. De Auctore IV.* Cf., Moreau Lislet & Carleton's trans. VIII. Preface, VIII. But Jacome (Jacobo) Ruiz had designated as "books of the sages" the works of the Italian jurists which he used (Altamira, *Continental Leg. Hist. Ser.*, I. 654).

<sup>54</sup> *Continental Legal Hist. Ser.*, I. 627-628.

<sup>55</sup> *Ante* n. 15.

<sup>56</sup> Altamira, *Continental Legal Hist. Ser.*, I. 629.

<sup>57</sup> *Roman Law* (4th ed. 1903), p. 107.

## 2. *Canon Law*

"The renascence which was brought about in the Church from the time of Gregory VII." (1073-1085) notes Altamira,<sup>58</sup>

carried with it an extension of the Church's power, a favorable modification of its relations with the State, and the enlargement of the personal and real immunities of the clergy, the latter being reflected in the practices of civil law. At the same time . . . the Church was . . . subjecting to its jurisdiction and to the rule of the canon law many institutions of the civil law, such as marriage, usurious loans, rent-charges, etc. The slow penetration of that law into the customs and statute-book of Castile is particularly observable in the field of family law, beginning with marriage itself, and in certain classes of contract,—not to mention the modifications it produced in the fields of public, political, and criminal law (concession of the crown by the pope, absolution of the subjects from oaths of allegiance, changes in criminal procedure).

Moreover, here as in the case of Roman law, a new repository had become available. Gratian's *Decretum*, the first formal compilation of Canon law, in anything resembling completeness, appeared before the middle of the century preceding the *Partidas* and became well known in Spain. Again, "at the Papal court many Spaniards won distinction as canonists".<sup>59</sup> Among these was Raymundo de Penafort, "the famous compiler of the 'Decretals' of Gregory IX as found in the *Corpus Juris Canonici*".<sup>60</sup> These "Decretals" appeared in 1234, about a score of years before the composition of the *Partidas* was undertaken, and seem to have been extensively used therein.

Nevertheless, the *Partidas* do not always follow the Canon law. Sometimes they lag behind; as where the former retain unequal standards of marital fidelity as between husband and wife,<sup>61</sup> in place of the single standard established by the latter.<sup>62</sup> On the other hand the secular law forbids a widow to remarry within a year while the church law imposes no restriction.<sup>63</sup>

## 3. *Maritime Law*

Brissaud observes:<sup>64</sup>

<sup>58</sup> *Continental Leg. Hist. Ser.*, I. 634.

<sup>59</sup> *Ibid.*, I. 656.

<sup>60</sup> Sherman, *Roman Law in the Modern World*, I. 280; cf., p. 220.

<sup>61</sup> *Partida VII.* tit. XVII (I).

<sup>62</sup> *Corpus Juris Canonici Decr.* II-VI., pp. 4, 5.

<sup>63</sup> *Partida IV.* (XII) (III).

<sup>64</sup> *History of French private Law* (trans. *Continental Leg. Hist. Ser.*, I. 242).

In the middle ages the maritime law had become international. . . . By the thirteenth century the *Consulat de la Mer* on the Mediterranean, and the *Règles d'Oleron* on the Atlantic, form the common law of maritime commerce.

Spanish territory bordered both of these great seas and the compilers of the *Partidas* had the benefit of each of these maritime collections. On the one hand that portion of *Partida V.* which treats of maritime law, "bears", it is said,<sup>65</sup>

so strong a family likeness to the Rules of Oleron, the basis of English maritime law, that if these are not derived from it, both have probably a common parent in the *Consulado*.

The latter, on the other hand,

is said to have been digested at Barcelona, in the Catalan tongue, during the middle ages, by order of the kings of Aragon. The Spaniards vindicated the claim of their country to the honor of this compilation; and the opinion of Casaregis, who published an Italian edition of it at Venice, in 1737, with an excellent commentary, and of Boucher, who, in 1808, translated the *Consolato* into French from an edition printed at Barcelona in 1494, are in favor of the Spanish claim.<sup>66</sup>

It would seem, therefore, that the compilers of the *Partidas* had material enough at hand for this phase of their task without resorting to the "Digest", even accepting the claim of Benedict<sup>67</sup> that all of it was Roman save the "Rhodian principles".

#### 4. Native Law

This brings us to the question, "How much real native law found its way into the *Partidas*"? That some of it did, there can be no doubt. The compilers used the *fueros* of Castille and León at whose history, we have glanced, together with others of Cuenca and Córdoba, all of which contributed to the structure of the *Partidas*. Occasional and exceptional provisions like the number 12 for inquisitions and the presumption of guilt are apparently of Visigothic origin. But no evidence has been found that this source was more than local or that the outside barbarian collections, which had appeared from time to time, in any way influenced the *Partidas*. If there was a movement throughout Europe toward the formulation of law, it would seem

<sup>65</sup> Raikes, *Maritime Codes of Spain and Portugal* (1896), Preface.

<sup>66</sup> Kent, *Commentaries on American Law*, III. 10, 11.

<sup>67</sup> "The Historical Position of the Rhodian Law", in *Yale Law Journal*, XVIII. 223.

not to have been international nor interrelated, but to have received its common inspiration from Italy. Surely is it not without significance that the authors of the *Partidas* in Spain and Bracton in England, working contemporaneously, but unknown to each other, alike drew Roman law from Azo.

#### CHARACTER AND PLACE

If we are correct in our interpretation of Alfonso's purpose and policy, we must conclude with Altamira<sup>68</sup> that it was his

wish to prepare a statute or code expressive of the new influences of the Canon and Roman law in order to impose it as a common law . . . upon all his subjects.

Regardless, however, of what the king's intent may have been, the effect of his undertaking was, ultimately, to produce that very result. For the large infusion of Roman doctrines through the *Partidas* changed the character of Spanish law. From a system which expressly forbade<sup>69</sup> its adherents to "borrow from the Roman laws", it became one in which the Roman element predominated. Thus, the *Partidas* mark the reception of the Roman law in Spain. And when we recall that this eventually included the Spanish colonies and that thereby more than half of the western hemisphere, not to mention other countries, became legally Romanized, we realize how important a landmark was this in the evolution of world law.

Again the *Partidas* represent a significant step toward codification. Doubtless the idea had been suggested by Gratian's *Decretum* as well as by the revival of interest in Justinian's books; but the *Partidas* were the first extensive compilation of western secular law, after Justinian. For while there had been barbarian collections and books of customs and while the century of the birth of the *Partidas* saw also the completion of the *Sachsenspiegel*<sup>70</sup> and the so called "Ordinance of St. Louis",<sup>71</sup> none of these approach the *Partidas* in comprehensiveness and influence.

#### ESTIMATES

And not alone in these particulars, but also in content have the merits of the *Partidas* been recognized. Naturally Spanish writers were the first to do so.

<sup>68</sup> *Continental Legal Hist. Ser.*, I. 621.

<sup>69</sup> *Forum Judicium*, II. (I. 8, 9).

<sup>70</sup> See Altamira, *Continental Legal Hist. Ser.*, I. 318-320, 342-344.

<sup>71</sup> *Ibid.*, p. 228.

Nicolas Antonio remarked, in paraphrase of Cicero, that the *Partidas* were superior to all libraries.<sup>72</sup> Antequera<sup>73</sup> characterized it as the monumental work of Alfonso's reign, the most advanced legal collection for that time which saw the light in Europe, which has had no rival in later times, which has been and is the object of admiration of our own and foreign peoples, to which both the adherents and opponents of its doctrines have paid the tribute of lofty eulogies, and which by the extraordinary character of its conception and the superiority of its merit has received the homage of profound respect and enthusiastic applause even from those who, in this century, judge the works of remote times with an unfavorable estimate and an exacting standard.

Altamira<sup>74</sup> tells us that

His fame, which corresponded to the merits of its execution, rapidly opened it a way and gave it, among the embodiments of the national legal genius, a rank as high as any which Alfonso's ambition could have craved for it.

Indeed, the *Partidas* have so continued to grow in favor among Spaniards that they are regarded with as much pride and reverence as is the Federal Constitution among Americans and the manuscript text of the former, now preserved in the Biblioteca Nacional at Madrid, is one of the prized treasures of the Spanish nation.

#### ARRANGEMENT AND CONTENTS

One author praises the *Partidas* "for natural arrangement". Whatever is meant by the term "natural" in that connection, it certainly is not a logical arrangement. The division into seven "parts" or books is purely arbitrary (there might better have been six or eight) and avowedly symbolical.<sup>75</sup> Doubtless the suggestion was reinforced by the following passage from the introduction<sup>76</sup> to Justinian's *Digest*:

We have divided the books into seven parts, not incorrectly nor without reason, but as regards the nature and use of numbers and in order to make a division of parts in keeping therewith.

<sup>72</sup> *Códigos Españoles*, II. int. XXIII; where estimates of other writers are given.

<sup>73</sup> *Historia de la Legislación Española*, p. 265.

<sup>74</sup> *Continental Legal Hist. Ser.*, I. 630.

<sup>75</sup> See the *Prólogo* (Setenario, pp. 4, 5) where the sacred character of the number 7 is elaborated at great length.

<sup>76</sup> *Constitutio Tanta* (Monro's ed.), XXVI. Cf. La Serna, *Códigos Españoles*, 2 Int. XV; Howe, *Studies in Civil Law* (2nd Ed.), p. 142.

But that number had long been a conspicuous feature of universal symbolism.<sup>77</sup> What was really new in the *Partidas* was the utilization of that feature in forming an acrostic of Alfonso's name from the first letter of the initial words of each part's introduction. That this arrangement had no relation to the subject matter of the parts well appears from the prologue to *Partida IV.* (which it recites, "we have placed in the middle of the seven *Partidas* . . . just as the heart is placed in the middle of the body") and also from the following *conspicitus*:

<i>Introduction</i>	<i>Partida</i>	<i>Subject Matter</i>
A' servicio de dios	I	Law in general; <i>fueros</i> (customs), ecclesiastical regulations (a digest of Canon law <sup>78</sup> )
L a fe católica	II	Government and administration
F izo nuestro señor	III	Procedure and property <sup>79</sup>
O nras señaladas	IV	Domestic relations
N acen entre homes	V	Obligations <sup>80</sup> and maritime laws <sup>81</sup>
S esudamente dijeron	VI	Wills and inheritance; guardians
O lvidanza et atrevimiento	VII	Crimes; exegesis (interpretation); general principles

It is obvious enough now that the general matter in Books I and VII should have been combined; that Books III and V, should each have been divided and that the provisions relating to guardians in Book VI belong in Book IV. But we are not to expect either scientific accuracy or logical arrangement from thirteenth century minds. In these particulars their work certainly excels the *Forum Judicum* and the wonder is that they did so well, even with their Roman models.

CHARLES SUMNER LOBINGIER.

Washington, D. C.

<sup>77</sup> See Pike, *Morals and Dogma*, pp. 58-60, 727-731.

"Not less symbolic was the number 7 (probably due to its being, as Philo says, a combination of 3 + 4, or, as some hold, 3 + 1 + 3, and not, as more commonly supposed, based on astrological reasons. . . . Among the Romans we have also clear evidence of its influence, as in the 7 kings, hills, testamentary seals (and witnesses), etc. See Aulus Gellius, N. A. III, 10, 17; Apuleius, *Metamorph.* XI, 238". H. Goudy, *Trichotomy in Roman Law* (Oxford, 1910), pp. 10, 11 n.

<sup>78</sup> Hunter, *Roman Law*, p. 107.

<sup>79</sup> "Taken from Roman Law almost exclusively" (see *ibid*).

<sup>80</sup> "Almost word for word from Roman Law" (see *ibid*).

<sup>81</sup> "Bears so strong a family likeness to the Rules of Olerón the basis of English Maritime Law, that if these are not derived from it, both have probably a common parent in the Consulado" (Raikes, *Maritime Codes of Spain and Portugal*, 1896, Preface).

## THE ARCHER M. HUNTINGTON FUND FOR THE PURCHASE OF HISPANIC BOOKS IN THE LIBRARY OF CONGRESS

[Address delivered at the annual meeting of the American Library Association,  
Washington, May, 1929.]

Blanco Fombona, the distinguished Venezuelan, author, and publisher, has said—and, I think, truly said—that letters are the best vehicle of the affections—“*las letras son el mejor vehículo de los afectos*”. This, it seems to me, applies not only to the individual but to the nation as well. Acquaintance with national and racial ideals and aspirations, with intellectual and spiritual values, forms the basis upon which must be predicated international understanding. The elements of such acquaintanceship are potent in the forces that operate to guarantee peace, accord, and solidarity among nations.

And it is the nobler mission of the book to bring about such an international feeling. In the absence of protracted personal contacts—a privilege that few can enjoy—it is the printed page that introduces us into another sphere of thoughts, ideals, mental attitudes, social, political, and economic life.

With respect to inter-American relations, the ideas that I have expressed find confirmation in the eloquent discourse of Dr. Olaya, given yesterday before a section of this association. Recognizing the importance and significance of financial, commercial, and diplomatic relations, the present need of an intensified cultural approach, of a true intellectual and spiritual approximation, is obvious.

I need not, before those present, call attention to the fact that in devotion to Hispanic studies, we have in this country a noble tradition to follow—the tradition left by Ticknor, by Prescott, by Longfellow, by Irving. And the degree to which the present generation is emulating the example of those eminent pioneers justifies honest pride. The development of a group of enthusiastic and competent scholars, the great extension of the study of the Hispanic languages and literature in our schools, colleges, and universities, and the striking increase in Hispanic material in our libraries, are some indication of such activities.

It is my privilege at the present moment to speak in only brief and general terms of what the National Library, using the resources made available by the generosity of Mr. Archer Huntington, is trying to do in furnishing material for, and promoting, Hispanic studies.

It was inevitable that interest in Hispanic America, as reflected in debates in congress, in the initiation of diplomatic relations during the early days of the nascent republics and in the events leading to the formulation of the Monroe Doctrine, should have developed a correspondingly strong interest in the acquisition of Hispanic American material by the Library of Congress.

That interest, increasing with the importance of our relations with the republics of the south and with the attention paid to the study of Hispanic American history, economic growth, and culture, has manifested itself concretely in the development of an extensive and valuable collection of books on the colonial history of Hispanic America, including the period of discovery, conquest, and settlement, and material illustrating the progress of geographical knowledge and cartography of America in the sixteenth century. The collection is also rich in primary and secondary material for the study of the political, economic, and social history of the republics that emerged from the disintegration of the colonial empires of Spain and Portugal. Moreover, its collection of documents and law is probably unequaled on the continent.

Even in the earlier years of the history of the library when it was housed with inadequate accommodations in the capitol, its then meager appropriation for the purchase of books, never exceeding \$10,000.00 annually, did permit of the acquisition, under favorable conditions of the market, of many rare and intrinsically valuable books.

A new order of library affairs began in 1897, with the occupancy by the library of its new building. This meant a great expansion of its activities and brought concrete recognition of its importance in the form of large increases in the funds made available by congress for the acquisition of material.

Since that time systematic efforts have been made toward the development of the collection of books relating to Hispanic America. Today this collection is one of outstanding importance. It is, moreover, a powerful factor, in connection with the Columbus Memorial Library of the Pan American Union, with the archives of the Department of State and other government archives, in making Washington the most important center in this country for Hispanic American research.

The library, however, even with its augmented funds, could not develop its collections in all fields in an equal and symmetrical man-

ner. It was, for example, unable to acquire books relating to the history, culture, and art of Spain and Portugal save in a very selective and limited way. Nor was it possible to develop its collection of Spanish American literature as comprehensively and exhaustively as was desirable.

The year 1927 was marked by an event of signal significance in the history of the library—an event that gave a new orientation to the policy and practice of the library with respect to the acquisition of Hispanica and Hispanoamericana. I refer to the gift by Mr. Archer M. Huntington to the Library of Congress of \$100,000.00, the income from which is to be devoted to the purchase of books that relate to Spanish, Portuguese, and South American arts, crafts, literature, and history.

Mr. Huntington, founder and president of the Hispanic Society of America, is internationally known as a Hispanic scholar and a generous patron of Hispanic studies. The magnificently housed library of the Hispanic Society in New York is one of the most valuable collections of Hispanic material in the world. It will stand as an enduring monument to the founder's fine scholarship and unwavering devotion to the encouragement and stimulation of Hispanic studies in the United States. His noble gift to the Library of Congress extends the field of his influence in a notable way, by making it possible for a national institution, through its own broad field of activities, to promote the study of Hispanic history and culture.

The conditions which determine the application and administration of this splendid fund may be authoritatively described by quoting Dr. Putnam's letter to Mr. Huntington dated November 14, 1927, quoted from the *Report of the Librarian of Congress*:

DEAR MR. HUNTINGTON: You have asked whether the Library of Congress (*i.e.*, our Trust Fund Board, in its behalf), would accept a fund of which the income would be applicable to the purchase of books for its collections, the books to become the property of the Library, upon the understanding:

"That the books purchased shall relate to Spanish, Portuguese, and South American arts, crafts, literature, and history only; that the said books shall have been published not more than ten years previously; that a list of such books shall at once be forwarded upon receipt by the Library of Congress to the Hispanic Society of America; and that the latter shall be permitted to select those needed by the members of the staff and competent scholars for use at the Hispanic Society for the period of three months; that the entire income of the fund be expended annually."

I am sure that the Trust Fund Board would gladly welcome, and the Library Committee approve acceptance of, such a fund; and that the suggested stipulations would form no obstacle. No book desired for the uses of the Hispanic Society or its sister institutions would be less than a desirable acquisition for the Library of Congress; nor would the initial preferential use of it by them in any way impair its utility for the later general service here, including further service to them also, if required, since any volume in our collections capable of issue would under our regular policy be issued to them as an "Inter Library" loan.

Acceptance of the fund, coupled with the stipulations, would attach the latter securely to the application of the income, the board being a trustee, responsible for the observance of such stipulations, and with a control quite independent of the whim or indifference of the library administration for the time being, could such be predicated. And the board is a quasi corporation, with perpetual succession, and all the usual powers and obligations of a trustee. It may even, as the "United States" may not, be held to account in the courts.

Moreover, I am confident that the authorities of the Library would not merely loyally but with enthusiasm fulfill their duty under an arrangement so magnanimous, so ingenious in effecting a multiple benefit, and, by its example, so certain to exercise a salutary influence upon both the policy of institutions and the method of benefactions.

Faithfully yours,

[Signed] HERBERT PUTNAM,

*Librarian of Congress.*

I wish to stress two significant stipulations that limit the application of the fund. In the first place, books purchased shall have been published not more than ten years previously. In the second place, books relating to Mexico, Central America, and the Antilles are excluded from the operation of the fund.

It may be of interest at this point to consider to what degree the income of the fund covers the field to which it is applicable.

Some preliminary considerations are necessary. The library is the beneficiary of certain unique sources of increase among which may be mentioned (1) the copyright deposits, (2) the returns from international exchange and (3) the returns from the exchanges of the Smithsonian Institution with learned societies throughout the world.

Giving consideration to these sources from which the library receives much material that would otherwise have to be purchased, and considering also the present literary output of the countries to which the fund is applicable, we believe that the library will be able to buy this material extensively, if not exhaustively. We hope that the research man and the student will find in the library collections not only the greater but also the lesser gods of contemporary literature.

This conclusion seems justified by our experience of the past year during which period we have been making purchases with the income from the fund. Our acquisitions numbering some 2,000 volumes have covered the period from 1918 to 1928, and the material thus acquired is significant of what the collection will be when we are able to apply the whole annual income to the purchase of books published during one year.

It is obvious, however, that if the library depends wholly upon the income from the fund under the stipulations controlling its application, the resulting collection will be top heavy and unbalanced—very strong in contemporary material but relatively weak in those sections it had not been able previously to develop. In order to remedy this condition and to possess a rounded collection, fully adequate to the demands of scholarly research, the library must have recourse to the general appropriation for selective and discriminating purchases of material published prior to 1918.

There remains to be considered the significance of this generous donation.

The library assumes a primary obligation with respect to books purchased by the proceeds of the fund. This is expressed in the stipulations: "that a list of such books shall at once be forwarded upon receipt by the Library of Congress to the Hispanic Society of America; and that the latter shall be permitted to select those needed by the members of the staff and competent scholars for use at the Hispanic Society for the period of three months".

By the terms of this stipulation the material purchased by the library is primarily and specifically subject to a demand by the Hispanic Society for the prosecution of its own activities. This obligation, however, does not lessen to any appreciable degree the value of this material in the library's activities.

By means of the printed catalogue cards which are prepared by the library staff and sent to various depository catalogues and to corporate and individual subscribers, the library will sensibly spread information concerning the current bibliography of Spain, Portugal, and Hispanic America among institutions and individuals lacking the bibliographic resources of the Library of Congress. This will doubtless tend to promote the business of publishers in these countries.

The development of the collection of books acquired through the proceeds of the fund, and by purchases charged to the general ap-

propriations of the library for material published prior to 1918 should operate to make the library of Congress a center for Hispanic studies. It should attract students and research men. It should stimulate graduate studies in Hispanic history, languages, literature, and art among the universities of the District. It should, in short, in connection with other factors previously indicated, make Washington the most important center in the United States for these studies.

Lastly, the promotion of studies in the history, literature, and culture of Hispanic America in the Capital, which is the center of diplomatic contacts, should exert a marked influence in developing those relations of understanding, sympathy, and intellectual acquaintanceship upon which must be predicated wholesome and enduring international relations. Much has already been accomplished in the development of sound inter-American relations. Commercial intercourse alone has done much to promote reciprocal interest and acquaintanceship. Such results have throughout the history of civilization always followed commercial relations. But there have been other significant contacts, not wholly commercial or political, but intellectual and cultural. As illustrations of these we shall mention the various pan-American Congresses, the visits of Mr. Root and more recently of President Hoover, the increasing flow of students from Hispanic America to our schools and universities, and the exchange of university professors. All of these constructive influences will, we think, be encouraged and strengthened as a result of this fund, influences constructive in the promotion of mutual understanding and respect between Anglo Saxon and Hispanic America, two types of culture, not antagonistic but complementary.

C. K. JONES.

Library of Congress.

## NOTES

Another of the important series "Archivo Histórico Diplomático Mexicano" being published by the Secretariat of Foreign Relations in Mexico, has recently appeared. This is No. 30 of that series and is entitled *Comentarios de Francisco Zarco sobre la Intervención Francesa (1861-1863)*. An excellent prologue (pp. VII-XXXV) by Antonio de la Peña y Reyes precedes the *Comentarios*.

The Pan American Union reports that very gratifying progress has been made with respect to the Bibliographical Conference to be held in the near future in accordance with the resolution adopted at the last Pan American Conference. Reports have been made by the advisory committee and by a number of the national committees. Keen interest has been aroused over the conference and it is fully expected that the action taken therein will be most conducive to bibliographical coöperation among the countries of the Americas.

The Library of the Pan American Union has compiled under date of July 1, 1929, a mimeographed list of fourteen pages of the "Recent Books in English on Description and Travel of Latin America, Including a few References on Pan Americanism and the Monroe Doctrine". The list is limited to books known to be in print. Under date of July 10, the same library issued a mimeographed compilation of fourteen pages on "Sources of Information for Books on Latin America". This list is composed of three parts, namely: (1) List of Magazines containing reviews of new Books; (2) List of Library and book-trade Journals; (3) List of Book Dealers with some Details regarding them. Both lists will be found of considerable use, and can probably be furnished within the limits of the editions to those making request for them.

An Executive Decree, published in the GACETA OFICIAL of Caracas, Venezuela, July 15, appropriates the sum of Bs. 160,000 (about \$32,000) for the publication of the "Archivo del Generalísimo Francisco Miranda," which comprises the manuscript collection of the Miranda diaries and letters now in the possession of the Venezuelan Academy of History. This sum is made available for the fiscal year 1929/30, and it is understood that further appropriations will be made as required.



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